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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT EMERGENCY MEDICAL SERVICES BILL, 2007.

GUJARAT BILL NO. 1 OF 2007.

A BILL

to provide for emergency medical services in the State and for that purpose to establish Gujarat Emergency Medical Services Authority and City and District Emergency Medical Services Councils in the State and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India, as follows:-

CHAPTER I

PRELIMINARY

- (1) This Act may be called the Gujarat Emergency Medical Services Act, 2007.
- (2) It extends to the whole of the State of Gujarat.

Short title,
extent and
commencement.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act and any reference in any such provision to the date of the commencement of this Act shall be construed as the reference to the date of coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,-

(1) "Advanced Life Support" means special services designed to provide definitive pre-hospital emergency medical care including but not limited to cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorised personnel under the direct supervision of a base hospital as part of a local emergency medical services system at the scene of an emergency, during transport to an acute care hospital, during inter facility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital;

(2) "Authority" means the Gujarat Emergency Medical Services Authority established under section 4;

(3) "base hospital" means a hospital to which a City Council or, as the case may be, a District Council has, by a contract entered into with its management, entrusted the work of providing or directing the life support system or limited life support system and pre hospital care system;

(4) "basic life support" means emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary

resuscitation to maintain life without invasive techniques until the victim may be transported or until life support is available;

(5) "bye-laws" means the bye-laws made under this Act by a City Council or, as the case may be, a District Council;

(6) "city" means a city as defined in clause (8) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949;

(7) "City Council" means a City Emergency Medical Services Council established for a city under section 20;

(8) "Commissioner of Health" means the Commissioner of Health of the State of Gujarat;

(9) "Director" means the Director of Emergency Medical Services Authority appointed under sub-section (1) of section 3;

(10) "District" means a district constituted from time to time under the Bombay Land Revenue Code, 1879 and in the case where a district as so constituted includes a City, excluding that City;

(11) "District Council" means a District Emergency Medical Services Council established for a district under section 20;

(12) "Emergency Medical Services" means the services provided to meet with a medical emergency;

(13) "Emergency Medical Technician" means an individual who is trained in all aspects of basic life support according to standards prescribed by the Authority and who holds a valid certificate issued by the Authority;

(14) "Medical Council" means the Medical Council of India constituted under the Medical Council Act, 1956;

102 of 1956.

(15) "Medical Council Act" means the Medical Council Act, 1956;

102 of 1956.

(16) "medical emergency" means a situation—

- (a) where an individual needs such immediate medical attention and the absence of which would place his health in serious jeopardy, or
- (b) where the potential for such need is perceived by emergency staff;

(17) "member" means a member of the Authority and includes the Chairperson of the Authority;

(18) "regulations" means regulations made under this Act;

(19) "rules" means rules made under this Act;

(20) "State Medical Register" means the register maintained under the Gujarat Medical Council Act, 1967.

Guj. 10 of
1968.

CHAPTER II

DIRECTOR OF EMERGENCY MEDICAL SERVICES

Director of
Emergency
Medical Services.

3. (1) (a) The State Government may, by notification in the *Official Gazette*, appoint an officer to be the Director of Emergency Medical Services Authority who shall, subject to the control of the Authority, exercise such powers and perform such functions and duties as are conferred to or imposed on him by or under this Act.

(b) No person shall be appointed as a Director under sub-section (1) unless he is a physician or surgeon enrolled on the State Medical Register and who

possesses the medical qualification of Doctor of Medicine (General Medicine) or, as the case may be, Master of Surgery (General Surgery or Orthopedic Surgery) granted by Universities or Medical Institutions in India specified in the First Schedule to the Medical Council Act and possesses experience in the practice of trauma or emergency medicine for a period of not less than five years:

Provided that while appointing a person as a Director under clause (a) preference shall be given to a person who possesses additional experience in the administration of services relating to public health.

- (2) (a) The Director shall be appointed from amongst three persons recommended by the Commissioner of Health, Medical Services and Medical Education.
- (b) The terms and conditions of appointment of the Director shall be such as may be prescribed by rules..
- (3) To assist the Director in exercising his powers and performing his functions and duties under this Act, the State Government may appoint such officers and persons and give them such designations as it thinks fit.
- (4) Subject to the provisions of this Act and the rules and regulations made thereunder, the Director—
 - (a) shall be entitled to—
 - (i) attend the meetings of the Authority;
 - (ii) call for any information, written statement, account or report from base hospitals;
 - (b) shall supervise and control the emergency medical services;

- (c) shall lay down standards for and approve a Paramedic and Emergency Medical Technicians Training Programme conducted by such institution in the State as is authorised by the Authority;
- (d) shall prescribe standards for refresher training to be given to persons trained in Paramedic and Emergency Medical Technician Programme;
- (e) shall participate in the meetings of the committees on emergency medical services;
- (f) shall appoint committees of such experts as he thinks fit for assistance in the implementation of the emergency medical services;
- (g) shall appoint such person as a Regional Disaster Medical and Health Co-ordinator for such area of the State as deemed fit.

CHAPTER III

ESTABLISHMENT AND CONSTITUTION OF GUJARAT EMERGENCY MEDICAL SERVICES AUTHORITY

Establishment
and
incorporation of
Authority.

4. (1) For the purpose of providing emergency medical services in the State, the State Government shall, by notification in the *Official Gazette*, establish an Authority by the name of the Gujarat Emergency Medical Services Authority with effect from such date as may be specified in the notification.
- (2) The Authority shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property,

both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

5. The headquarters of the Authority shall be at Ahmedabad or at such other place as the State Government may, by notification in the *Official Gazette*, specify. Headquarters of Authority.

6. (1) The Authority shall consist of a Chairperson and seventeen other members as follows, namely :- Constitution of Authority.

- (a) the Secretary to the Government of Gujarat, Health and Family Welfare Department, *ex-officio Chairperson*;
- (b) the Secretary to the Government of Gujarat, Legal Department, *ex-officio*;
- (c) the Secretary to the Government of Gujarat, Home Department, *ex-officio*;
- (d) the Commissioner of Health, Medical Services and Medical Education, *ex-officio*;
- (e) a person who is a physician or surgeon enrolled on the State Medical Register and who possesses the medical qualification of Doctor of Medicine or, as the case may be, Master of Surgery granted by Universities or Medical Institutions in India specified in the First Schedule to the Medical Council Act, 1956 and possesses experience in the practice of trauma or emergency medicine for a period of not less than five years, to be appointed by the State Government;
- (f) the President of the Gujarat Branch of Indian Medical Association, *ex-officio*,

- (g) the President of the Gujarat Orthopedic Association, *ex-officio*,
- (h) the Director, *ex-officio*, Member Secretary,
- (i) the President of the Gujarat Nursing Council, *ex-officio*,
- (j) a person, representing the Academy of Traumatology (India) who has experience in trauma life support, to be nominated by the Academy,
- (k) the President of the Gujarat Ambulances Association, *ex-officio*,
- (l) a person from amongst professors in the medical colleges attached to hospitals in the State who have experience in the management of emergency medical services for a period of not less than five years to be nominated by the State Government,
- (m) the President of the Gujarat Branch of Association of Surgeons of India, *ex-officio*,
- (n) a person who being enrolled on the State Medical Register is an administrator of a hospital (not being a Government hospital) having not less than one hundred beds for a period of not less than five years, to be appointed by the State Government,
- (o) a person to be nominated by the State Government from amongst members of City Councils,
- (p) a person, to be nominated by the State Government from amongst members of District Councils,

Guj. 20 of
2003.

(q) a person to be nominated by the State Government from amongst the Chief Officers of the Fire Brigades maintained by the Municipal Corporations in the State,

(r) the Chief Executive Officer of the Gujarat State Disaster Management Authority established under the Gujarat State Disaster Management Act, 2003, *ex- officio*,

(2) On the constitution of the Authority, there shall be called the first meeting thereof for election of its Chairperson on such day as the Director may specify.

7. (1) The term of office of a member shall be three years from the date of his appointment or nomination:

Term of office and
conditions of
service of
members.

Provided that the term of office of a member nominated under clause (l), (n), (o), (p) or (q) of sub-section (1) of section 6 shall come to an end as soon as he ceases to be a professor, administrator, member or, as the case may be, the Chief Officer.

(2) The term of office of an *ex-officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(3) A member shall not be entitled to receive any compensation for his services but shall be reimbursed for the travelling and other expenses incurred by him in discharge of his duties.

8. On occurrence of any vacancy in the office of the member due to death, resignation or any other reason, the same shall be filled in by the State Government by nominating a person in the manner provided in sub-section (1) of section 6.

Filling up
of vacancy.

9. A person shall be disqualified for being appointed or being a member of Disqualifications. the Authority if such person—

- (a) is, or at any time being adjudged an insolvent or has suspended payment of his debts or has compounded with his creditors;
- (b) is of unsound mind and stands so declared by the competent court;
- (c) is or has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude; or
- (d) has, either directly or indirectly, any financial or other interest which is likely to affect prejudicially his functioning as a member.

**Removal and
resignation of
member.**

10. (1) Notwithstanding anything contained in sub-section (1) of section 7, the State Government may, at any time, remove any member from office if, in its opinion, such a member—

- (a) is, or has become subject to any of the disqualifications mentioned in section 9;
- (b) has been guilty of misconduct in discharge of his duties;
- (c) has become physically or mentally incapable of discharging his duties as a member;
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (e) has, without reasonable cause, refused or failed to perform his duties for a period of not less than three months:

Provided that no member shall be removed from his office unless an opportunity of being heard is given to the member.

(2) Any member may, by writing under his hand addressed to the State Government, resign his office.

Meetings of Authority.

11. (1) The Authority shall meet at such time and at such place and shall, subject to sub-sections (2) and (3), observe such rules of procedure with regard to transaction of its business at the meetings as may be provided by Regulations.

(2) If the Chairperson, for any reason, is unable to attend any meeting, any other member authorised by the Chairperson present at the meeting, shall preside over the meeting of the Authority.

(3) (a) All the questions at a meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in case when there is an equality of votes the chairperson or in his absence, the person presiding, shall have and exercise a second or casting vote.

(b) The quorum at the meetings of the Authority shall not be less than five members.

12. (1) The Authority, in order to enable it to perform its functions, may—

Officers and employees of Authority.

(a) with the approval of the State Government—

(i) appoint a Secretary and

(ii) determine such number and category of other officers and employees, and

(b) appoint other officers and employees so determined.

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such, as may be determined by the Authority by Regulations.

Acts and
proceedings
presumed to
be valid.

13. (1) No act or proceeding of the Authority shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Authority.

(2) No act done by any person acting in good faith as a member, shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his appointment.

CHAPTER IV

FUNCTIONS OF AUTHORITY

Functions of
Authority.

14. Subject to the provisions of this Act, the Authority shall perform the following functions, namely:-

- (a) (i) to ensure provision of emergency medical services in the State;
- (ii) to ensure provision of such services free of cost to the patients who are determined by the State Government to be Below Poverty Line;
- (b) to assess the provision of emergency medical services in an area of the State for the purpose of determining the need for additional emergency medical services;
- (c) to prepare plans for providing emergency medical services in the State in respect of such matters, as may be prescribed by Regulations and lay down guidelines for their implementation;
- (d) to provide technical assistance to City and District Councils, non-Government organisations, such other agencies providing emergency medical services;
- (e) to obtain plans from City and District Councils, non-Government organisations providing emergency medical services and such other agencies for implementation of emergency medical services;

- (f) to provide financial assistance to City and District Councils and other emergency medical services agencies for the purpose of planning, organising, implementing and maintaining emergency medical services;
- (g) to accredit trauma centres according to criteria prescribed by Regulations;
- (h) to lay down minimum standards for the training of the emergency medical technicians;
- (i) to issue certificates to emergency medical services technicians;
- (j) to ensure that all training programmes for emergency medical services technicians are located in an approved hospital or educational institution;
- (k) to approve standards and guidelines laid down by the Director for the implementation of emergency medical services and, if necessary, to review the same;
- (l) to advise the Director on the planning of an emergency medical services data collection system;
- (m) to advise the Director in respect of the communications, medical equipments, training personnel facilities and other components of an emergency medical services system;
- (n) to recommend to the Director, City and District Councils and other emergency medical services agencies further planning of the emergency medical services in the State; and
- (o) to perform such other functions as are entrusted to it by rules.

CHAPTER V
FINANCE, ACCOUNTS, AUDIT AND REPORTS
OF AUTHORITY

Fund of Authority. 15. (1) (a) A token provision of Rs.15 lakh is made in the non plan budget of medical services in the year 2005-06.

(b) The Authority shall have its own fund and all receipts of the Authority shall be carried thereto and all payments by the Authority shall be made therefrom.

(2) The Authority may accept grants, subventions, donations and gifts from the Central or the State Government or a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(3) The Authority may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as expenditure payable out of the fund of the Authority.

(4) All moneys belonging to the fund of the Authority shall be kept in any corresponding new Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and in ^{5 of 1970.} column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and approved by the State Government for ^{40 of 1980.} the purpose or invested in securities authorised by the Trusts Act, 1882 at the ^{2 of 1882.} discretion of the Authority.

Borrowing of money. 16. The Authority may, with the previous approval of the State Government, borrow money from the open market or otherwise, for the purpose of carrying out its functions under this Act.

Budget. 17. (1) (a) The Authority shall, by such date in each year as may be prescribed by rules, submit to the State Government for approval a budget in the

prescribed form for the next financial year, showing the estimated receipts and expenditure, and the sums which would be required from the State Government during that financial year.

(b) If any sum granted by the State Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the State Government for that year.

(2) No sum shall be expended by or on behalf of the Authority unless the expenditure is covered by provision in the budget approved by the State Government.

18. (1) The accounts of the Authority shall be prepared and maintained in such form and in such manner as may be prescribed by rules.

Accounts
and Audit.

(2) The Authority shall cause to be prepared for such financial year an annual statement of accounts in such form as may be prescribed by rules.

(3) The accounts of the Authority shall be audited by an Auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

1 of 1956.

(4) The Auditor shall be appointed by the Authority.

(5) Every Auditor appointed to audit the accounts of the Authority under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Authority and to require such information from the Authority as he may think necessary for performance of his duty as an auditor.

(6) The Auditor shall send a copy of his report together with a copy of audited accounts to the Authority which shall, as soon as may be after the receipt of the audit report, forward the same to the State Government.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (6), cause the same to be laid before the State Legislature.

Annual report.

19. (1) The Authority shall, during each financial year prepare, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous financial year and an account of activities likely to be undertaken by it in the current financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature within a period of six months from the date of its receipt under sub-section (1).

CHAPTER VI

ESTABLISHMENT AND CONSTITUTION OF

CITY AND DISTRICT EMERGENCY MEDICAL SERVICES COUNCILS

Establishment and incorporation of City and District Emergency Medical Services Councils.

20. (1) For the purpose of providing emergency medical services in every City and in every District, the State Government shall, by notification in the *Official Gazette*, establish a City Emergency Medical Services Council for every City by the name of such City and a District Emergency Medical Services Council for every District by the name of such District with effect from such date as may be specified in the notification and different dates may be specified for different City and District Emergency Medical Services Councils.

(2) Every City Council and every District Council shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its

corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose of property, both movable and immovable, and to enter into contract and do all things necessary for the purposes of this Act.

21. The headquarters of the City Council shall be in the City for which it is established and the headquarters of the District Council shall be at such place in the District for which it is established as the District Council may, by order in writing direct.

Headquarters
of City and
District
Councils.

22. The City Council shall consist of a Chairperson and seven other members as follows, namely: -

Constitution of
City Council.

- (a) the Municipal Commissioner of the Municipal Corporation of the City, *ex-officio* who shall be the Chairperson,
- (b) the President of the branch of the Indian Medical Association in the City, *ex-officio*,
- (c) the Chief Health Officer in the City, *ex-officio*, Member-Secretary,
- (d) the Commissioner of the Police of the City, *ex-officio*,
- (e) the Chief Officer of the Fire Brigade maintained by the Municipal Corporation of the City, *ex-officio*,
- (f) the President of District Blood Transfusion Council, *ex-officio*,
- (g) a person representing hospitals in the City registered with the City Council, to be nominated by the Authority in consultation with the Council, and
- (h) a person representing the non-Government organisations which are associated with the work of providing emergency medical services

in the City to be nominated by the Authority in consultation with the City Council.

**Constitution of
District
Council.**

23. The District Council shall consist of a Chairperson and eight other members, as follows, namely:—

- (a) the Collector of the district, *ex-officio*, who shall be the Chairperson,
- (b) the President of the branch of the Indian Medical Association of the district, *ex-officio*,
- (c) the Chief District Medical Officer of the district, *ex-officio*,
- (d) the Chief District Health Officer of the District, *ex-officio*,
- (e) the Superintendent of Police of the district, *ex-officio*,
- (f) the Chief Officer of the Fire Brigade maintained by the State Government in the district,
- (g) the President of the District Blood Transfusion Council, *ex-officio*,
- (h) a person representing hospitals in the district registered with the District Council, to be nominated by the Authority in consultation with the Council, and
- (i) a person representing the non-Government organisations which are associated with the work of providing emergency medical service in the district, to be nominated by the Authority in consultation with the District Council.

CHAPTER VII

PROVISIONS RELATING TO MEMBERS OF COUNCILS

Definitions.

24. In this Chapter, unless the context otherwise requires—

(a) "Council" means the City Council or, as the case may be, the District Council,

(b) "member" means a member of the Council.

25. (1) The term of office of a member shall be three years from the date of his nomination. Term of office and conditions of service of members.

(2) The term of office of an *ex-officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(3) A member shall not be entitled to receive any compensation for his services but shall be reimbursed for the travelling and other expenses incurred by him in discharge of his duties.

26. On occurrence of any vacancy in the office of a member by reason of death, resignation or any other reason, the same shall be filled in by the authority nominating him in the manner provided in section 22 or, as the case may be, section 23. Filling up of vacancy.

27. A person shall be disqualified for being appointed or being a member of the Council, if such person— Disqualifications.

(a) is, or at any time being adjudged an insolvent or has suspended payment of his debts or has compounded with his creditors,

(b) is of unsound mind and stands so declared by a competent court,

(c) is, or has been convicted of any offence which, in the opinion of the Authority, involves moral turpitude, or

(d) has, either directly or indirectly, any financial or other interest which is likely to affect prejudicially his functioning as a member.

**Removal and
resignation of
member.**

28. (1) Notwithstanding anything contained in sub-section (1) of section 25, the Authority may, at any time, remove any member from office if, in its opinion, such a member—

- (a) is, or has become subject to any of the disqualifications mentioned in section 27;
- (b) has been guilty of misconduct in discharge of his duties;
- (c) has become physically or mentally incapable of discharging his duties as a member;
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (e) has, without reasonable cause, refused or failed to perform his duties for a period of not less than three months:

Provided that no member shall be removed from his office unless an opportunity of being heard is given to the member.

(2) Any member may, by writing under his hand addressed to the Authority, resign his office.

**Meetings
of Council.**

29. (1) The Council shall meet at such time and at such place and shall, subject to sub-sections (2) and (3), observe such rules of procedure in regard to transaction of its business at the meetings, as may be provided by the bye-laws.

(2) If the Chairperson is, for any reason, unable to attend any meeting, any other member authorised by the Chairperson present at the meeting, shall preside over the meeting of the Council.

(3) (a) All the questions at a meeting of the Council shall be decided by a majority of votes of the members present and voting, and in case when

there is an equality of votes, the Chairperson or in his absence, the presiding member shall have and exercise the second or casting vote.

(b) The quorum at the meetings of the Council shall not be less than three members.

30. (1) The Council, in order to enable it to perform its functions, may--

Officers and
employees
of Council.

(a) with the approval of the Authority --

(i) appoint a Secretary; and

(ii) determine the number and category of other officers and employees, and

(b) appoint other officers and employees so determined.

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such as may be determined by the Council by bye-laws.

31. (1) No act or proceeding of the Council shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Council.

Acts and
proceedings
presumed to
be valid.

(2) No act done by any person acting in good faith as a member shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his appointment.

CHAPTER VIII

FUNCTIONS OF CITY AND DISTRICT COUNCILS

32. Subject to the provisions of this Act, a City Council and a District Council shall perform the following functions, namely:-

Functions of
Councils.

- (a) to ensure provision of emergency medical services in the City or District;
- (b) to prepare plans for implementation of emergency medical services in the City or, as the case may be, in the District;
- (c) to entrust the work of providing or directing the life support system or limited life support system and pre-hospital care system to a hospital situate, in the City or, as the case may be, in the District;
- (d) to prepare and maintain a register of base hospitals to which the Council has entrusted the work under clause (c);
- (e) to supervise the functioning of base hospitals;
- (f) to establish trauma centres in the City or, as the case may be, in the District;
- (g) to grant certificates of recognition to persons referred to in section 45, non-Government organisations or persons for providing emergency medical services under section 46;
- (h) to grant licences to ambulances to provide advanced life support service or basic life support service under section 49; and
- (i) to perform such other functions as are entrusted to it by regulations.

CHAPTER IX

FINANCE, ACCOUNTS, AUDIT AND REPORTS OF COUNCILS

Definition.

33. In this Chapter, unless the context otherwise requires, the word "Council" means the City Council or, as the case may be, the District Council.

**Fund of
Council.**

34. (1) The Council shall have its own fund and all receipts of the Council shall be carried thereto and all payments by the Council shall be made therefrom.

(2) The Council may accept grants, subventions, donations and gifts from the Central or the State Government or a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(3) The Council may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as expenditure payable out of the fund of the Council.

(4) All moneys belonging to the fund of the Council shall be kept in any corresponding new Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and approved by the State Government for the purpose or invested in securities authorised by the Trusts Act, 1882 at the discretion of the Council.

5 of 1970.
40 of 1980.
2 of 1882.

35. The Council may, with the previous approval of the State Government, borrow money from the open market or otherwise for the purpose of carrying out its functions under this Act. Borrowing of money.

36. (1) (a) The Council shall, by such date in each year as may be prescribed by rules, submit to the State Government for approval a budget in the prescribed form for the next financial year, showing the estimated receipts and expenditure, and the sums which would be required from the State Government during that financial year. Budget of Council.

(b) If any sum granted by the State Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the State Government for that year.

(2) No sum shall be expended by or on behalf of the Council unless the expenditure is covered by provision in the budget approved by the State Government.

Accounts and Audit.

37. (1) The accounts of the Council shall be prepared and maintained in such form and in such manner as may be prescribed by rules.

(2) The Council shall cause to be prepared for such financial year an annual statement of accounts in such form as may be prescribed by rules.

(3) The accounts of the Council shall be audited by an Auditor duly qualified to act as an Auditor of companies under section 226 of the Companies Act, 1956. 1 of 1956.

(4) The Auditor shall be appointed by the Council.

(5) Every Auditor appointed to audit the accounts of the Council under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Council and to require such information from the Council as he may think necessary for performance of his duty as an auditor.

(6) The Auditor shall send a copy of his report together with the copy of audited accounts to the Council which shall, as soon as may be after the receipt of the audit report, forward the same to the State Government.

(7) The State Government shall, as soon as may be, after the receipt of the audit report under sub-section (6), cause the same to be laid before the State Legislature.

Annual report.

38. (1) The Council shall, during each financial year prepare, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous financial year and an account of activities likely to be undertaken by it in the current financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature within a period of six months from the date of its receipt under sub-section (1).

CHAPTER X

BASE HOSPITALS

39. A City Council and a District Council shall entrust the work of providing or directing the life support system or limited life support system and pre-hospital care system to a hospital situate, in the city or, as the case may be, in the district, by a contract entered into with the management of the hospital.

Contracts to be entered into by City Councils and District Councils with management of hospitals.

40. The City Council and the District Council shall prepare and maintain a register of base hospitals to which the Council has entrusted the work of providing or directing the life support system or limited life support system and pre-hospital care system.

Registers of base hospitals.

41. Every base hospital shall--

Duties of base hospitals.

- (a) establish and maintain medical equipments for providing or directing the life support system or limited life support system and pre-hospital care system;
- (b) provide separate accommodation to be used for the aforesaid purpose to be known as "the Emergency Department";
- (c) employ a full or part time physician or surgeon, as a Director of Emergency Department of the hospital, who is enrolled on the State Medical Register and who possesses the medical qualification of Master of Surgery (General Surgery or Orthopedic Surgery) granted by a university or institution specified in the First Schedule to the Medical Council Act, 1956 and who has substantial experience in the practice of trauma care or emergency medicine;

- (d) employ and maintain staff consisting of medical, para-medical, general medical technicians and such other persons as it may consider necessary and such staff shall perform their duties under the supervision and control of the Director of Emergency Department for the purpose of carrying out its duties under the contract with the City Council or, as the case may be, District Council;
- (e) maintain one or more ambulances of the nature specified in Chapter XI for providing the emergency medical services;
- (f) provide easy access to emergency medical services to persons who are in need of treatment in medical emergency; and
- (g) perform such other duties as may be specified in the bye-laws.

**Base hospitals
not to
discriminate on
grounds of
religion, race,
caste, sex, etc.**

42. The base hospital shall provide emergency medical services to every person irrespective of his religion, race, caste, sex, decent, place of birth, residence or any of them.

**Supervision
and control of
Councils over
base hospitals.**

43. The base hospital shall generally carry out its duties subject to supervision and control of the City Council or, as the case may be, the District Council.

CHAPTER XI

REQUIREMENTS OF AMBULANCES

44. (1) In respect of an ambulance vehicle the holder of a licence granted under section 49 shall be required to satisfy the licensing officer that—

- (a) the vehicle contains equipments relating to visual and audible signals as on emergency vehicle such as flashing or revolving lights;
- (b) the standards in force at the time the vehicle is manufactured and not inconsistent with the Motor Vehicles Act, 1988, relating to design,

floor, general configuration and exterior markings and such other matters as may be prescribed by rules, are maintained;

(c) the ambulance vehicle shall carry such equipments and supplies in working order to be readily available for use for providing Basic Life Support and Advanced Life Support;

(d) the ambulance vehicle shall carry such medical equipments and supplies as may be prescribed by rules;

(e) the ambulance vehicle may carry after life support equipments and drugs in addition to those generally prescribed for use by a Basic Life Support Ambulance Service.

(2) (a) A Basic Life Support Ambulance when carrying a patient except in the routine carriage of patient who is convalescing or is not on medical emergency, shall be staffed by at least two persons, one of whom shall be an Emergency Medical Technician, Emergency Medical Technician Paramedic or Health Professional and one of whom shall be a person who is qualified as an ambulance attendant.

(b) An Emergency Medical Technician Paramedic or Health Professional shall accompany the patient in the patient compartment of the ambulance during his carriage.

(3) An Advanced Life Support Ambulance shall be staffed with two persons both of whom are Health Professionals or one is Health Professional and the other is either an Emergency Medical Technician or an Emergency Medical Technician Paramedic or one is an Emergency Medical Technician and the other is an Emergency Medical Technician Paramedic or both of whom are Emergency Medical Technician Paramedics.

(4) The staff specified for Advanced Life Support Ambulance shall remain on duty for 24 hours a day for seven days a week.

(5) (a) Ambulance driver shall be qualified as a driver according to the provisions of Motor Vehicles Act, 1988. 59 of 1988.

(b) Besides the qualifications provided in the Motor Vehicles Act, 1988, the Ambulance driver shall have successfully completed an Emergency Vehicle Operators' Course of Instructions approved by the City Council or, as the case may be, by the District Council. 59 of 1988.

(6) The holder of a licence shall apprise the hospitals in his area of operation as to when the ambulance service shall not be in operation due to inadequate staffing or for any other reason and when his resources are committed in such manner that he would not be able to have an ambulance and required staff to respond to a call to provide emergency assistance.

(7) A holder of licence may stock such drugs as are approved by the City Council, the District Council or, as the case may be, the base hospital.

(8) (a) Where an ambulance vehicle manifests an evidence of a mechanical or equipment deficiency which poses a significant threat to the health or safety of patient or crew, the holder of the licence shall immediately withdraw the vehicle from operation.

(b) No ambulance vehicle, which has been withdrawn from operation, shall be operated as an ambulance until the deficiency has been corrected.

CHAPTER XII

REGULATION OF PROVIDING EMERGENCY MEDICAL SERVICE

45. No person shall advertise, proclaim, profess or represent that he provides emergency medical service in a City or a District unless such person possesses a valid certificate of recognition issued to him by an officer authorised in this behalf by a City Council or, as the case may be, a District Council (hereinafter referred to as "the authorised officer").

46. (1) (a) A person referred to in section 45 or a Non-Government Organisation or an association of persons may make an application to an authorised officer for grant of certificate of recognition (hereinafter referred to as "the certificate") for providing emergency medical service in a City, or as the case may be, in a District.

(b) A person referred to in section 45 or a Non-Government Organisation or an association of persons providing emergency medical service on the date of coming into force of this Act (hereinafter referred to as "the said date") shall, within three months from the said date, make an application to the authorised officer for grant of a certificate for providing emergency medical service and—

(i) a person who makes such an application shall be deemed to have been authorised to provide emergency medical service from the said date till the date on which he is either granted or refused a certificate, and

(ii) a person, who does not make such application within the said period of three months, shall be deemed to be providing emergency medical service without a certificate.

Prohibition against advertising, proclaiming, etc. of providing emergency medical service without valid certificate of recognition.

Grant of certificate of recognition.

(2) Every such application under sub-section (1) shall be made in such form and shall contain such particulars including those regarding the competency of the applicant to provide emergency medical service and accompanied by such fees, as may be prescribed by the regulations.

(3) The authorised officer may grant a certificate to the applicant in such form containing such terms and conditions and on payment of such fees, as may be prescribed by the regulations.

(4) A certificate granted under this section shall be valid for a period of three years from the date on which it is granted and may be renewed from time to time for the said period on such terms and conditions and on payment of such fees, as may be prescribed by the regulations.

(5) Unless it is specifically provided in the terms of a certificate, the grant of a certificate to a person shall not in any way hinder or restrict the power of the authorised officer to grant a certificate to another person in respect of the same area.

47. (1) If the authorised officer is satisfied, either on a reference made to him in this behalf or otherwise that—

(a) a certificate granted under section 46 has been obtained by misrepresentation as to an essential fact, or

(b) the holder of a certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules, regulations or bye-laws made thereunder,

then, without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the authorised officer may,

after giving the holder of the certificate an opportunity of showing cause, revoke or suspend the certificate.

(2) Subject to any regulations that may be made in this behalf, the authorised officer may also vary or amend a certificate granted under section 46.

48. No person shall advertise, proclaim, profess or represent that he is engaged in providing Advanced Life Support Ambulance Service or Basic Life Support Ambulance Service in a City or in a District unless he holds a valid licence as an Advanced Life Support Ambulance Service or Basic Life Support Ambulance Service issued by an officer authorised in this behalf by a City Council or, as the case may be, a District Council (hereinafter referred to as "the licensing officer").

Prohibition
against
providing
ambulance
service without
a valid licence.

49. (1) Any person desiring to engage in providing Advanced Life Support Ambulance Service or Basic Life Support Ambulance Service in a City or in a District may make an application for a licence to a licensing officer in such form containing such particulars including the competency of the applicant to engage in providing such service and accompanied by such fees, as may be prescribed by the regulations.

Grant of
licence.

(2) The licensing officer may, after verification of the accuracy of the particulars specified in the application, inspection of the applicant's vehicle and equipments provided therein and verification of qualifications of the personnel to be employed therein and such other matters as may be prescribed by the regulations, grant a licence to the applicant in such form containing such terms and conditions and on payment of such fees, as may be prescribed by the regulations.

(3) A licence granted under this section shall be valid for a period of three years from the date on which it is granted and may be renewed from time to time

for the said period on such terms and conditions and on payment of such fees, as may be prescribed by the regulations.

(4) Unless it is specifically provided in the terms of a licence, the grant of a licence to a person shall not in any way hinder or restrict the power of licensing officer to grant a licence to another person in respect of the same area.

**Revocation,
suspension and
amendment of
licences.**

50. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 49 has been obtained by misrepresentation as to an essential fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules, regulations or bye-laws made thereunder.

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any regulation that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 49.

**Prohibition
against
change of
location or
area of
operation.**

51. No holder of a licence granted under section 49 shall change location or area of operation of service in the City or in the District which would not enable him to timely respond to emergency in the emergency area specified in the licence unless on an application made in that behalf to the licensing officer, the licensing officer gives consent to such a change in writing and records such change in the licence.

52. No person shall organise a public event such as a public meeting, public show, cricket match, religious function, at any place in the State where not less than 25,000 people are likely to assemble unless he ensures at his cost the availability of emergency medical services at that place to meet with any eventuality.

Prohibition
against
organising a
public event
without
arranging for
emergency
medical
services.

53. (1) An appeal shall lie to the Director against the following orders, namely:--

Appeals.

(a) an order refusing to grant a certificate under section 46 or to grant a licence under section 49, and

(b) an order revoking or suspending a certificate under section 47 or a licence under section 50.

(2) No appeal shall be entertained unless it is filed within a period of sixty days from the date of communication of the order.

(3) The Director may admit an appeal after the period of limitation specified in sub-section (2), if the appellant satisfies the Director that he had sufficient cause for not filing an appeal within such period.

(4) In computing the period of limitation, the provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply.

36 of 1963.

4 of 2004.

(5) Notwithstanding anything contained in the Gujarat Court-fees Act, 2004, an appeal under this section shall bear a court fee stamp of such value, as may be prescribed by the regulations.

54. (1) No civil court shall have jurisdiction to deal with or decide any question which the Director, the Authority, a City Council or a District Council or

Bar of
jurisdiction
of Civil
Court.

any officer of the Authority, a City Council or a District Council is empowered to deal with or decide by or under this Act.

(2) No order passed under this Act or any rules, regulations or appeals made thereunder by the Director, the Authority, a City Council or a District Council or any officer of the Authority, a City Council or a District Council shall be called in question in any civil court.

CHAPTER XIII

OFFENCES AND PENALTIES

Offences and penalties.

55. (1) Whoever contravenes the provisions of section 45 or 51, shall be punishable on the first conviction with fine which may extend to twenty-five thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

(2) Whoever contravenes the provisions of section 48 or 52 shall be punishable on the first conviction with fine which may extend to fifty thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to one lakh rupees or with both.

Offences by companies.

56. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence is committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means a body corporate and includes a company as defined under the Companies Act, 1956, a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

57. (1) No court shall take cognisance of an offence punishable under section 55 except on a complaint in writing made by an officer of the City Council or, as the case may be, the District Council generally or specially authorised in this behalf.

Cognisance of offences.

(2) Notwithstanding anything contained in section 200 of the Code of Criminal Procedure, 1973, it shall not be necessary, in respect of the offence referred to in sub-section (1), to examine the authorised officer when the complaint is presented in writing.

CHAPTER XIV

MISCELLANEOUS

58. (1) In performance of its functions under this Act, the Authority shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Power of State Government to issue directions to Authority.

Provided that the Authority shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government, whether a question is one of policy or not, shall be final.

Power of Authority to issue directions.

59. (1) In performance of its functions under this Act, the City Council or, as the case may be, the District Council shall be bound by such directions on questions of policy as the Authority may give in writing from time to time:

Provided that the City Council, or as the case may be, the District Council shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Authority, whether a question is one of policy or not, shall be final.

Members, officers and servants of Authority, City Council and District Council to be public servants.

60. Every member, officer and servant of the Authority, the City Council and the District Council shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rules or regulations or bye-law made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian 45 of 1860. Penal Code.

Protection of action taken under Act.

61. No suit, prosecution or other legal proceeding shall lie against the Authority, the City Council or, as the case may be, the District Council or any member, officer or servant of the Authority, the City Council or, as the case may be, the District Council for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules or regulations or bye-laws made thereunder.

Power of State Government to make rules.

62. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication :

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(4) All rules made under this section shall be laid for not less thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

63. (1) The Authority may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with this Act and the rules made thereunder for enabling it to perform its functions under this Act.

Power of Authority to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

64. (1) The City Council and the District Council may, with the previous approval of the Authority, make bye-laws not inconsistent with this Act, or with

Power of City Council and District Council to make bye-laws.

rules and regulations made thereunder for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the matters expressly required or allowed by this Act to be specified by bye-laws.

Power to remove difficulties. 65. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be, after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

There is a need for statewide developed Emergency Medical Services system for providing emergency medical care and attention to the people in need of such service. Emergency medical care in early phase following accidents, injuries and illnesses can be life saving. To provide such emergency medical service, it is proposed to establish the Gujarat Emergency Medical Services Authority in the State and to establish for each city for which there is a Municipal Corporation, a City Council, and for every district, a District Council. The City and District Councils will register base hospitals and maintain ambulances to achieve the following objectives :-

- (1) To offer life saving medical services to all people in the State in the 'golden hour' in case of accidents, injuries and illnesses and thereby, save their lives which would otherwise be lost due to lack of timely emergency medical care.
- (2) To ensure universal coverage of such services throughout the State including cities, districts and highways through public-private participation and to encourage non-government organizations to participate in providing emergency medical care in cities and districts.
- (3) To provide Emergency Medical Services free of cost to patients who are below poverty line.
- (4) To standardize ambulance services by setting up norms for availability of human and material resources in ambulance vehicles used for emergency medical services.
- (5) To provide standards for education and training of para-medical staff involved in the delivery of emergency medical services.
- (6) To provide accreditation to the hospitals according to their capabilities and standards so as to enable them to provide efficient emergency medical service.
- (7) To lay down standards for transportation and communication for emergency medical service.
- (8) To co-ordinate with the Gujarat State Disaster Management Authority at the times of disaster in providing emergency medical service.

This Bill also seeks -

- (i) to prohibit a person against advertising, proclaiming, professing or representing that he provides emergency medical service in a city or district unless he holds a valid certificate of recognition;
- (ii) to prohibit a person against advertising, proclaiming, professing or representing that he provides the Advanced Life Support Ambulance Service or Basic Life Support ambulance

Service in the city or district unless he holds a valid licence, and

(iii) to prohibit a person against organizing a public event such as public meeting, public show, cricket match, religious function at the place where not less than twenty five thousand people are likely to assemble, without arranging for emergency medical services at his own cost at that place.

The Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill :-

Clause 2. - This clause defines certain terms used in the Bill.

Clause 3. - This clause empowers the State Government to appoint the Director of Emergency Medical Services Authority. It also provides for the qualifications, functions and duties of the Director.

Clause 4. - This clause provides for establishment and incorporation of the Gujarat Emergency Medical Services Authority.

Clause 5. - This clause provides for the head quarters of Authority.

Clause 6. - This clause provides for constitution of Authority.

Clause 7. - This clause provides for term of the office of member of Authority.

Clause 8. - This clause provides for occurrence of vacancy of member and filling up of such vacancies.

Clause 9. - This clause provides for disqualifications incurred by a person for being appointed or being a member of the Authority.

Clause 10. - This clause empowers the State Government to remove a member of the Authority for the reasons stated therein and also provides for resignation of a member.

Clause 11. - This clause provides for time, place, quorum and rules of procedure with regard to transaction of the business at the meetings of the Authority.

Clause 12. - This clause provides for determination by regulations the number and category of officers and employees of the Authority and the manner of recruitment and their conditions of services.

Clause 14.- This clause provides for functions to be performed by the Authority. The main function amongst other functions is to ensure provision of Emergency Medical Services in the State.

Clause 15.- This clause provides for the fund of the Authority.

Clause 16.- This clause empowers the Authority to borrow money from the open market or otherwise with the previous approval of the State Government.

Clauses 17, 18 and 19.- These clauses provide for preparation of budget of Authority, maintenance of its accounts and audit thereof and laying of annual report before the State Legislature.

Clause 20.- This clause provides for establishment and incorporation of City Emergency Medical Services Council and District Emergency Medical Services Council.

Clause 22.- This clause provides for the constitution of the City council.

Clause 23.- This clause provides for the constitution of the District Council.

Clauses 25, 27 and 28.- These clauses provide for terms of office, and conditions of service of members of the City and District Councils, their disqualifications, removal and resignation, respectively.

Clause 29.- This clause provides for meetings of the City and District Councils.

Clause 30.- This clause provides for officers and employees of the City and District Councils.

Clause 34.- This clause provides for the fund of the City and District Councils.

Clause 35.- This clause empowers the City and District Councils to borrow money from the open market with the previous approval of the State Government.

Clauses 36, 37 and 38.- These clauses provide for preparation of budget of Council, maintenance of its accounts and audit thereof and laying of annual report before the State Legislature.

Clause 39.- This clause empowers the City and District Council to entrust the work of providing and directing the Life Support System and pre-hospital care system to a base hospital.

Clause 40.- This clause provides for preparation and maintenance of the Register of base hospitals by the City and District Councils.

Clause 41.- This clause provides for the duties of the base hospitals.

Clause 43.- This clause provides for supervision and control of City and District Councils over base hospitals.

Clause 44.- This clause provides for the requirements that a person who desires to provide Advance Life Support Ambulance Service or Basic Life Support Ambulance Service shall have to comply.

Clause 45.- This clause prohibits providing of Emergency Medical Services without a valid Certificate of Recognition.

Clause 46.- This clause provides for grant of certificate of recognition.

Clause 47.- This clause provides for revocation, suspension and amendment of certificates.

Clause 48.- This clause prohibits a person to advertise, proclaim, process or represent for providing ambulance service without a valid licence granted by the authorized officer in this behalf.

Clause 49.- This clause provides for grant of licence.

Clause 50.- This clause provides for revocation, suspension and amendment of licences.

Clause 51.- This clause prohibits the holder of a licence to change the location or area of operation of service in the City or District without the consent of the Licensing Officer.

Clause 52.- This clause prohibits a person to organize a public event at any place in the State without arranging for Emergency Medical Services at his cost at that place.

Clause 53.- This clause provides for an appeal against an order refusing to grant a certificate of recognition or a licence and revoking or suspending a certificate or a licence.

Clause 54.- This clause provides for bar of jurisdiction of the Civil Court to deal with or decide any question which the Director, the Authority, a City or District Council or an officer of the Authority, a City or a District Council is empowered to deal with or decide by or under this Act.

Clause 55.- This clause provides for offences and penalties.

Clause 56.- This clause provides for offences by companies.

Clause 57.- This clause empowers the Court to take cognizance of offence punishable under section 55 on a complaint in writing made by the officer of a City or a District Council authorised in that behalf.

Clause 58.- This clause empowers the State Government to give directions on the question of policy to the Authority in writing.

Clause 59.- This clause empowers the Authority to issue directions on the question of policy to the City and District Councils.

Clause 62.- This clause empowers the State Government to make rules for carrying out the purposes of the Act and the matters expressly required or allowed by the Act to be prescribed by rules.

Clause 63.- This clause empowers the Authority to make regulations for enabling it to function under this Act with the previous approval of the State Government.

Clause 64.- This clause empowers the City and District Councils to make bye-laws for enabling it to function under this Act with the previous approval of the Authority.

Clause 65.- This clause empowers the State Government to make an order consistent with the provisions of this Act or as appears it to be necessary for removing the difficulty in giving effect to the provisions of this Act.

ASHOK BHATT,

FINANCIAL MEMORANDUM

Token provision of Rs. 15.00 lacs (rupees Fifteen Lacs only) has been made in non-plan budget of Medical Services for the year 2006-07 to meet the initial expenditure for establishment and constitution of Gujarat Emergency Medical Services Authority and City and District Emergency Medical Services Councils. The recurring expenditure will be met through revenue generated by registration fees, etc. from the concerned participating agencies. Hence, it would not involve any additional expenditure from the Consolidated Fund of the State.

ASHOK BHATT,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force and also to appoint different dates for different provisions of the Act.

Clause 2.- Sub-clause (13) of this clause empowers the Authority to prescribe by regulations, the standards of training in basic life support to Emergency Medical Technicians.

Clause 3.- (i) Para (a) of sub-clause (1) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, an officer to be the Director of Emergency Medical Services Authority;

(ii) Para (b) of sub-clause (2) of this clause empowers the State Government prescribe by rules, the terms and conditions of appointment of the Director;

(iii) Para (c) and (d) of sub-clause (4) of this clause empower the Authority to prescribe by regulations, to lay down the standards for Paramedic and Emergency Medical Technician Training programme and refresher training.

Clause 4.- Sub-clause (1) of this clause empowers the State Government to establish, by notification in the *Official Gazette*, the Gujarat Emergency Medical Services Authority with effect from the date as specified in the notification.

Clause 5.- This clause empowers the State Government to specify by notification in the *Official Gazette*, such other place to be the headquarters of the Authority.

Clause 11.- Sub-clause (1) of this clause empowers the Authority to prescribe by regulations, the time and place of the meetings of the Authority and the rules of procedure with regard to the transaction of business at the meetings.

Clause 12.- Sub-clause (2) of this clause empowers the Authority to determine by regulations, the manner of recruitment, salary and allowances and other conditions of service of the Secretary, officers and other employees of the Authority.

Clause 14.- (i) Sub-clause (c) of this clause empowers the Authority to prescribe by regulations, the preparation of plans for providing Emergency Medical Services and laying down the guidelines for their implementation;

(ii) Sub-clause (g) empowers the Authority to prescribe by regulation, the criteria for accreditation of trauma centres;

(iii) Sub-clause (o) empowers the State Government to prescribe by rules, the other functions to be performed by the Authority.

Clause 17.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the date for submission of budget of the Authority to the State Government and the form in which the budget shall be prepared.

Clause 18.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form and manner in which the accounts of the Authority shall be prepared and maintained;

(ii) Sub-clause (2) empowers the State government to prescribe by rules, the form in which the Authority shall prepare an annual statement of accounts.

Clause 19.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and the time at which the Authority shall prepare its Annual Report.

Clause 20.- Sub-clause (1) of this clause empowers the State Government to establish, by notification in the *Official Gazette*, a City Emergency Medical Services Council and a District Emergency Medical Services Council with effect from the date as specified in the notification.

Clause 29.- Sub-clause (1) of this clause empowers the Council to prescribe by bye-laws, the time and place of meetings of the Council and the rules of procedure for transaction of business at the meetings.

Clause 30.- Sub-clause (2) of this clause empowers the Council to determine by bye-laws, with the approval of the Authority, the manner of recruitment, salary and allowances and other conditions of service of Secretary, officers and other employees of the Council.

Clause 32.- Sub-clause (i) of this clause empowers the Authority to prescribe by regulations, such other functions as are entrusted to the Council.

Clause 36(1).-Para (a) of sub clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and the time at which the Council shall prepare and submit its budget.

Clause 37.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form and manner in which the accounts of the Council shall be prepared and maintained.

(ii) Sub-clause (2) empowers the State Government to prescribe by rules, the form in which the Council shall prepare an annual statement of accounts.

Clause 38.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and the time at which the council shall prepare its annual report.

Clause 41. - Sub-clause (g) of this clause empowers the Council to prescribe by bye-laws such other duties to be performed by base hospitals.

Clause 44(1).- (i) Sub-clause (b) of this clause empowers the State Government to prescribe by rules, the such other matters of standards relating to design, floor, general configuration and exterior markings of ambulance vehicle to be maintained by the licence holder.

(ii) Sub-clause (d) empowers the State Government to prescribe by rules, such medical equipments and supplies which the ambulance vehicle shall carry.

Clause 46.- (i) Sub-clause (2) of this clause empowers the Authority to prescribe by regulations, the form in which the application shall be made for grant of certificate of recognition and the fees to be paid therewith;

(ii) Sub-clauses (3) and (4) of this clause empower the Authority to prescribe by regulations, the form of certificate of recognition, the terms and conditions and fees subject to which the authorized officer may grant and renew the certificate of recognition;

Clause 47.- Sub-clause (2) of this clause empowers the Authority to prescribe regulations, subject to which authorized officer may vary or amend a certificate of recognition.

Clause 49.- (i) Sub-clause (1) of this clause empowers the Authority to prescribe by regulations, the form of application for a licence to provide Advanced Life Support Ambulance Service or Basic Life Support Ambulance Service and the fees to be paid therewith.

(ii) Sub-clauses (2) and (3) of this clause empower the Authority to prescribe by regulations, the form of licence, the terms and conditions and the fees subject to which the licence shall be granted or renewed.

Clause 50.- Sub-clause (2) of this clause empowers Authority to prescribe regulations subject to which the Licensing Officer may vary or amend a licence.

Clause 53.- Sub-clause (5) of this clause empowers the Authority to prescribe by regulations, the value of court-fee stamp to be affixed on an appeal.

Clause 62.- Sub-clause (1) of this clause empowers the State Government to make rules, subject to previous publication, by notification in the *Official Gazette*, for carrying out the purposes of the Act and to provide for all or any other matters expressly required or allowed by the Act to be prescribed by rules.

Clause 63.- Sub clause (1) of this clause empowers the Authority to make regulations, by notification in the *Official Gazette*, not inconsistent with the provisions of the Act and the rules made thereunder and to provide for all or any other matters expressly required or allowed by the Act to be prescribed by regulations.

Clause 64.- Sub-clause (1) of this clause empowers the City Council and the District Council to make bye-laws not inconsistent with the provisions of the Act, the rules and the regulations made thereunder, with the previous approval of the Authority, to provide for all or any other matters expressly required or allowed by this Act to be prescribed by bye-laws.

Clause 65.- Sub-clause (1) of this clause empowers the State Government to remove any difficulty arising in giving effect to the provisions of the Act, by an order published in the *Official Gazette*.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 3rd February, 2007.

ASHOK BHATT.

By Order and in the name of the Governor of Gujarat

H. D. VYAS,

Gandhinagar,

Date the 6th February, 2007

Secretary to the Government of Gujarat

Legislative and Parliamentary Affairs Department.

(C)



The Gujarat Government Gazette

EXTRAORDINARY

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 2 OF 2007.

A BILL

further to amend the *Gujarat Municipalities Act, 1963*.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 2007 Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of Guj.
34 of 1964.

2. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the principal Act"), in section 2, -

Guj. 34 of
1964.

- (a) clause (1) shall be deleted;
- (b) after clause (2), the following clause shall be inserted, namely :-

"(2A) "carpet area" means the floor area of a building excluding the area over which a wall whether outer or inner is erected;";

- (c) after clause (3A), the following shall be inserted, namely :-

"(3B) "chawl" means a building consisting of two or more tenements whether having common sanitary and other facilities or not and declared as such by the Director of Municipalities by notification in the *Official Gazette*;".

Amendment of
section 99 of
Guj. 34 of 1964.

3. In the principal Act, in section 99, in sub-section (1), in clause (i), for the words "annual letting value or the capital value or percentage of capital value", the words "carpet area" shall be substituted;

Insertion of new
section 99A in
Guj. 34 of 1964.

4. In the principal Act, after section 99, the following section shall be inserted, namely :-

Tax on
buildings
and lands.

"99A. (1) For the purposes of clause (i) of sub-section (1) of section 99, the tax shall, subject to such exceptions, limitations and conditions hereinafter provided, be levied annually on the buildings or lands situate in the municipal borough area at such rate per square metre of the carpet area of buildings and of the area of lands (hereinafter referred to as "the rate of tax") as the municipality may determine having regard to the factors as the State Government may prescribe by rules.

(2) For the purpose of levy of tax on buildings or lands situate within the municipal borough under sub-section (1), -

- (a) the buildings may be classified into residential buildings and buildings other than the residential buildings; and

(b) the municipality may determine one rate of tax for residential buildings and the other rate of tax for buildings other than the residential buildings :

Provided that it shall be lawful for the municipality to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined for residential buildings generally :

Provided further that the rates of tax per square metre of carpet area shall be decided by municipality with the approval of the Director of Municipalities.

(3) In lieu of the tax leviable under sub-section (1) read with sub- section (2), there shall be levied annually on,-

(a) residential huts, and
 (b) residential tenements in a *chawl*, each such tenement having carpet area not exceeding twenty-five square metres,
 such amount of tax as the Municipality may determine :

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the *Official Gazette*, specify.

Explanation.— For the purpose of levy of tax under this section, where an addition is made to an existing building whereby the carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.”.

5. In the principal Act, in section 100,-

Amendment of
section 100 of
Guj. 34 of
1964.

(1) in sub-section (1),

(a) the word, brackets and letter "or (b)" shall be deleted;

(b) for the words, brackets and figures "sub-sections (2) and (3)", the words, bracket and figure "sub-section (3)" shall be substituted.

(2) sub-section (2) shall be deleted;

(3) in sub-section (3), for the words, brackets and figure "a rateable value of the same amount as that fixed under sub-section (2)", the words "on the basis of carpet area of the buildings" shall be substituted.

Amendment of
section 101 of
Guj. 34 of 1964.

6. In the principal Act, in section 101, in clause (a), in item (iii), for the word "valuation on which such tax is to be imposed", the word "manner of assessment of such tax to be imposed" shall be substituted.

Amendment of
section 105 of
Guj. 34 of
1964.

7. In the principal Act, in section 105,-

(1) in sub-section (1), for clause (d), the following clause shall be substituted, namely : -

"(d) the assessment based on the carpet area and of the area of land of the property made in accordance with sub-section (1) of section 99A.;"

(2) in sub-section (2) for the words beginning with the words "where the valuation" and ending with the words "the said valuation", the words, brackets, letter and figure, "where the assessment is determined under clause (d) of sub-section (1), a sum equal to ten percentum of the said assessment" shall be substituted;

(3) in sub-section (3), for the words "the annual letting value and his estimate of the value of such building of land", the words "the carpet area of such building and of the area of land" shall be substituted.

Amendment of
section 108 of
Guj. 34 of 1964.

8. In the principal Act, in section 108, -

(1) in sub-section (1), -

(i) the words "valuation or" shall be deleted;
(ii) for the word "valuation". the word "carpet area" shall be substituted;

(2) in sub-section (2), -

(i) the words "valuation and" shall be deleted;
(ii) the words "valuation or" shall be deleted;

(3) in sub-section (4), the words "valuation and" shall be deleted;

(4) in sub-section (6), in item (i), for the words "of the valuation, or annual letting value on the basis prescribed in the rules", the words "of the assessment under clause (d) of sub-section (1) of section 105" shall be substituted.

Amendment of
section 111 of
Guj. 34 of 1964.

9. In the principal Act, in section 111, in sub-section (1), the words "valuation and" shall be deleted.

10. In the principal Act, in section 112, in sub-section (1), the words "valuation and" shall be deleted. Amendment of section 112 of Guj. 34 of 1964.

11. In the principal Act, in section 113, - Amendment of section 113 of Guj. 34 of 1964.

(1) in sub-section (1), the brackets, figure and word "(4) and" shall be deleted;

(2) sub-sections (3), (4) and (5) shall be deleted.

12. In the principal Act, section 114, shall be deleted. Deletion of section 114 of Guj. 34 of 1964.

13. In the principal Act, in section 271, in clause (l), the words beginning with "the conditions" and ending with " of such taxes;" shall be deleted. Amendment of section 271 of Guj. 34 of 1964.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat Municipalities Act, 1963, property tax is levied on buildings and lands based on annual letting value or the capital value or a percentage of capital value of the buildings or lands or both as the Municipality may impose. This has resulted in different methods of assessment of tax under section 99 in different municipalities leading to increase in litigations, non-transparency in assessment and low rate of recovery of tax affecting the revenue of the municipality. It is therefore, felt necessary to introduce single method of assessment of tax on buildings and the lands in the municipalities. The Government has introduced the levy of tax on the basis of carpet area of buildings and of the area of lands in the municipal corporations by amending the provisions of the Bombay Provincial Municipal Corporations Act, 1949. Similarly, it is considered necessary to provide for method for levy of tax on the basis of carpet area of the buildings and the area of the lands in place of the existing system of assessment of tax under section 99 of the Gujarat Municipalities Act, 1963 for ensuring transparency and Citizen satisfaction.

It is proposed to amend the said Act so as to empower the Municipalities to levy the property tax on the buildings and lands on the basis of carpet area instead of annual letting value or a percentage of capital value of the buildings and lands. It is proposed to empower the Municipalities to levy property tax on the basis of carpet area at such rate per square metre of carpet area of the building and land as the Municipality may determine having regard to the factors specified by the State Government and to fix different rates of tax for residential buildings and non-residential buildings.

It is proposed to empower the State Government to prescribe by rules, the factors which the Municipality shall consider before determining the rate of tax, and to determine the rate of tax for residential and non-residential buildings. In the case of residential huts and residential tenements in a chawl, such residential tenements having carpet area not exceeding twenty five square metres, the Municipality is empowered to levy in lieu of property tax an amount of tax not less than the amount as the State Government may determine.

This Bill seeks to amend the Gujarat Municipalities Act, 1963 to achieve the aforesaid objects.

INDRAVIJAYSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- New clause (3B) of section 2 proposed to be inserted by this clause empowers the Director to declare, by notification in the *Official Gazette*, buildings consisting of two or more tenements whether having common sanitary and other facilities or not, as the *Chawl*.

Clause 4.- (1) Sub-sections (1) and (2) of new section 99A, proposed to be inserted by this clause, empowers the Municipality,-

(i) to levy tax and to determine the rate of tax per square metre on the carpet area of buildings and of the area of lands;

(ii) it also empowers the State Government to prescribe by rules the factors which shall be considered by the Municipality for determining the rate of tax;

(2) sub-section (2) empowers the Municipality to determine by rules,-

(i) the rate of tax for residential buildings and non-residential buildings; and

(ii) such rate of tax as is lower than the rate of tax determined for residential buildings generally for the residential buildings, the carpet area of which does not exceed forty square metres.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14th February, 2007.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Gandhinagar,
Dated the 15th February, 2007.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

(C)



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT AND VALIDATION) BILL, 2007.

GUJARAT BILL NO. 3 OF 2007.

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949 and to validate the levy and collection of property taxes and charges and to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

- (1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment and Validation) Act, 2007.
- (2) It shall be deemed to have come into force on the 9th March, 1999.

Short title and commencement.

Amendment
of section
127 of Bom.
LIX of 1949.

Bom. LIX of
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 127, in sub-section (1), in clause (a), for the words, figures and letter "property tax under section 141B", the words, figures and letters "under section 141AA" shall be substituted.

Insertion of
new section
141AA in
Bom. LIX of
1949.

3. In the principal Act, after section 141A, for the heading "PROPERTY TAX", the following heading and section shall be inserted, namely :-

"PROPERTY TAXES

Property taxes
of what to
consist and at
what rate
leviable.

141AA. For the purposes of sub-section (1) of section 127, property taxes shall comprise the following taxes which shall, subject to exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City:-

(a) a water tax at such percentage of the amount of general tax levied under section 141B as the Corporation shall deem reasonable, for providing water supply for the City:

Provided that the Corporation shall, with the previous sanction of the State Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties:

Provided further that the minimum amount of such tax to be levied shall,-

(i) in respect of any one separate holding of land or of any one building (not being premises used exclusively for residential purpose) or of any one portion of a building which is let as a separate holding and which is not used exclusively for residential purpose, be not less than five rupees per mensem for any official year;

(ii) in respect of any premises used exclusively for residential purpose, be not less than three rupees per mensem for any official year;

(b) a conservancy and sewerage tax at such percentage of the amount of general tax levied under section 141B as will in the opinion of the Corporation suffice to provide for the collection, removal and disposal of all excrementitious and polluted matters from privies, urinals and cess-pools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such matters:

Provided that the Corporation shall, with the previous sanction of the State Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties:

Provided further that the minimum amount of such tax to be levied in respect of any one separate holding of land or of any one building or of any one portion of a building which is let as a separate holding shall be not less than two rupees per mensem for any official year and that the amount of such tax to be levied in respect of any hotel, club, industrial premises or other large premises may be specially fixed under section 137:

Provided also that while determining the rate of such tax under section 99 or 150, the Corporation may determine different rates for different classes of properties;

(c) a general tax which may be levied in accordance with the provisions of section 141B, if the Corporation so determines on a graduated scale;

(d) betterment charges leviable under Chapter XVI.

Explanation.—(i) Where any portion of a building or a land is liable to a higher rate of the general tax, such portion shall be deemed to be a separate property for the purpose of municipal taxation.

(ii) The water tax for providing water supply for the City and the conservancy tax for the collection, removal and disposal of all excrementitious and polluted matters from privies, urinals and cess-pools and for efficiently maintaining and repairing the municipal drains may be levied and collected jointly as ‘water and sewerage charges’ at the rate based on the carpet area and the type of the property.”.

4. In the principal Act, in section 141B,-

- (1) in sub-section (1), for the words, brackets and figures “sub-section (1) of section 127, property tax”, the words, brackets, figures and letters “clause (c) of section 141AA, general tax” shall be substituted;
- (2) in sub-section (5), for the words “property tax”, the words “general tax” shall be substituted;
- (3) in the marginal note, for the words “property tax”, the words “general tax” shall be substituted.

Amendment
of section
141B of Bom.
LIX of 1949.

5. In the principal Act, in section 141C and in the marginal note, for the words “property tax”, the words “property taxes” shall be substituted.

Amendment
of section
141C of
Bom. LIX of
1949.

Amendment
of section
141D of
Bom. LIX of
1949.

6. In the principal Act, in section 141D and in the marginal note, for the words "property tax", the words "property taxes" shall be substituted.

Amendment
of section
141E of Bom.
LIX of 1949.

7. In the principal Act, in section 141E, for the words "property tax" occurring at two places, the words "general tax" shall be substituted.

Amendment
of section
141F of Bom.
LIX of 1949.

8. In the principal Act, for section 141F, the following section shall be substituted, namely :-

Application of
certain sections
to levy property
taxes.

"141F. The provisions of sections 140 and 141A shall apply in relation to property taxes levied under section 141AA subject to modifications specified in Appendix I-A.".

Amendment
of section
454 of Bom.
LIX of 1949.

9. In the principal Act, in section 454, in sub-section (2), for the words, figures and letter "property tax under section 141B", the words, figures and letters "property taxes under section 141AA" shall be substituted.

Amendment
of
APPENDIX
I-A of Bom.
LIX of 1949.

10. In the principal Act, in Appendix I-A,-

(1) items at serial Nos. 1, 2 and 4 shall be deleted;

(2) for item at serial No.3, the following item shall be substituted, namely:-

"3. In section 140, in sub-section (1), for the portion beginning with the words "which the rent paid by such occupier" and ending with the words "of the said premises", the following shall be substituted, namely:-

"as the carpet area of the premises occupied by such occupier bears to the aggregate carpet area of the said premises occupied by both or all of them.".

Validation of
levy and
collection of
property
taxes and
charges.

11. (1) Notwithstanding anything contained in any judgment, decree or order of any court or authority, the property taxes or charges assessed, levied or collected or purported to have been assessed, levied or collected by the Corporation under the principal Act shall be and shall be deemed always to have been validly assessed, levied or collected in accordance with law as if the provisions of the principal Act as amended by this Act had been in force at all material times when such taxes or charges were assessed, levied or collected and accordingly-

(a) no suit, appeal, application or other proceedings shall be maintained or continued in any court or before any authority whatsoever for the refund of the said taxes or charges,

(b) no court or other authority shall enforce any decree or order directing refund of the said taxes or charges, and

(c) recoveries of such taxes or charges shall be made in accordance with the provisions of the principal Act as amended by this Act as if said provisions had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person-

(a) from questioning, in accordance with the provisions of the principal Act as amended by this Act, the assessment, levy or collection of the aforesaid taxes or charges, or

(b) from claiming, in accordance with the provisions of the principal Act as amended by this Act, refund of the aforesaid taxes or charges paid by him in excess of the amount due from him.

(c)

12. In the Gujarat Education Cess Act, 1962, in section 2, in clause (viii), for sub-clause (i), the following sub-clause shall be substituted, namely:-

Amendment
of section 2
of Guj.
XXXV of
1962.

“(i) in a City, where property tax is levied under section 129 or section 141B of the Bombay Provincial Municipal Corporations Act, 1949, general tax, and”.

Bom. LIX of
1949.

Guj. Ord. 1
of 2007.

Repeal and
savings.

13. (1) The Bombay Provincial Municipal Corporations (Gujarat Amendment and Validation) Ordinance, 2007 is hereby repealed.

Bom. LIX of
1949.
Guj. XXXV
of 1962.

(2) Notwithstanding such repeal, anything done or any action taken under the Bombay Provincial Municipal Corporations Act, 1949 and the Gujarat Education Cess Act, 1962, as amended by the said Ordinance, shall be deemed to have been done or taken under the said Acts as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 127 of the Bombay Provincial Municipal Corporations Act, 1949 empowers the Corporation to impose property taxes either under section 129 based on ratable value of buildings and lands or the property tax under section 141B based on carpet area of buildings and lands. Section 129 provides that property taxes shall comprise of water tax, conservancy tax, general tax and betterment charges. The Ahmedabad, Vadodara and Jamnagar Municipal Corporations have opted to impose the property tax under section 141B of the Act. The Civil Court at Vadodara has interpreted the provisions of law and held that imposition of water tax/charges and any other taxes by the Vadodara Municipal Corporation is illegal and without jurisdiction as the power to impose such taxes are not provided in section 141B of the Act.

2. The Corporation is providing services of water supply and sewerage and for that purpose it has to incur huge amounts for providing such water and other conservancy amenities. With a view to removing the infirmities and to explicit the intent and to empower the Corporation which has opted to impose the property tax under section 141B, also to impose other taxes viz. water tax, conservancy and sewerage tax and betterment charges as provided in section 129, it was considered necessary to insert new section 141AA and to make other consequential amendments in the Act with retrospective effect and to validate the assessment, levy and collection of such taxes and charges. Consequential amendment was also made in section 2 of the Gujarat Education Cess Act, 1962.

As the Gujarat Legislative Assembly was not in session, the Bombay Provincial Municipal Corporations (Gujarat Amendment and Validation) Ordinance, 2007 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

INDRAVIJAYSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 3.- (i) Proviso to clause (a) of new section 141AA proposed to be inserted by this clause empowers the Corporation with the previous sanction of the State Government to fix the minimum amount of water tax to be levied on buildings and lands in the City. It also empowers to fix different minima for different classes of properties;

(ii) proviso to clause (b) of new section 141AA proposed to be inserted by this clause empowers the Corporation with the previous sanction of the State Government to fix the minimum amount of conservancy and sewerage tax to be levied on buildings and lands in the City. It also empowers to fix different minima for different classes of properties.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 15th February, 2007.

INDRAVIJAYSINH JADEJA.

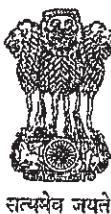
By order and in the name of the Governor of Gujarat

Gandhinagar,
Dated the 15th February, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

Government Central Press, Gandhinagar.

(C)



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE PANDIT DEENDAYAL PETROLEUM UNIVERSITY BILL, 2007.

GUJARAT BILL NO. 4 OF 2007.

A BILL

to provide for establishment of the "Pandit Deendayal Petroleum University" in the State and to confer the status of a University and for matters connected therewith and incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Pandit Deendayal Petroleum University Act, 2007. Short title and commencement.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (i) "Academic Council" means the Academic Council of the University constituted under section 15;
- (ii) "Board" means the Board of Governors of the University constituted under section 11;
- (iii) "Chairman" means the Chairman of the Board;
- (iv) "Deans" means the Deans of the University appointed under section 23;
- (v) "Directors" means the Directors of the Institutes or the Centres of the University appointed under section 22;
- (vi) "Director General" means the Director General of the University appointed under section 19;
- (vii) "Finance Committee" means the Finance Committee of the University constituted under section 17;
- (viii) "President" means the President of the University appointed under section 8;
- (ix) "prescribed" means prescribed by regulations;
- (x) "Registrar" means the Registrar of the University appointed under section 21;
- (xi) "Regulations" means the regulations of the University made under section 36;
- (xii) "Society" means the Gujarat Energy Research Management Institute registered under the Societies Registration Act, 1860 and the Bombay Public Trust Act, 1950;
- (xiii) "University" means the Pandit Deendayal Petroleum University established and incorporated under section 3;

XXI of 1860.
Bom. 29 of 1950.

Establishment and incorporation of University.

3. (1) There shall be established a University by the name of The Pandit Deendayal Petroleum University.

(2) The President, the Board, the Academic Council, the Director General, the Directors, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, hereby constitute a body corporate by the name of the Pandit Deendayal Petroleum University.

(3) The University shall function as a non-affiliating University and it shall not affiliate any other college or institute for the conferment of degree, diploma and grant of certificate to the students admitted therein.

(4) The University shall be a body corporate by the name aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name, sue or be sued.

4. The headquarters of the University shall be at such place as the State Government may, by notification in the *Official Gazette*, specify.

5. The objects of the University shall be as follows, namely:-

- (a) to develop the knowledge of science, technology, management and environment for the advancement of quality of life of the mankind in general and in relation to the domains of gas, oil and energy in particular;
- (b) to create centres and institutions of excellence for imparting state-of-the-art education, training and research in the fields of science, technology and management in general and in relation to the domains of gas, oil and energy in particular;
- (c) to create capabilities for development of knowledge, skills and competencies at various levels;
- (d) to create capabilities for upgrading the infrastructure of global standard for education, training and research in the areas related to gas, oil and energy;
- (e) to develop patterns of teaching and training at various levels of educational accomplishment so as to set a high standard of education in science, technology and management in relation to the domains of gas, oil and energy;
- (f) to function as a leading resource center for knowledge management and entrepreneurship development in the areas of science, technology and management in relation to the domains of gas, oil and energy;
- (g) to provide inter-relationship for national and global participation in the fields of science, technology and management in relation to the domains of gas, oil, energy and allied fields; and
- (h) to establish close linkages with industries to make teaching, training and research at the University relevant to the needs of the society, at national and global levels.

6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities, bodies or committees, or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely: -

- (i) to administer and manage the University and to establish such Institutes and Centers for research, education and instruction as are necessary for the furtherance of the objects of the University;

Objects of University,

University open to all irrespective of sex, religion, class, creed or opinion.

Powers and Functions of University.

- (ii) to provide for instruction, training and research in such branches of knowledge or learning pertaining to science, technology and management in relation to the domains of gas, oil, energy and allied areas;
- (iii) to conduct innovative experiments in new methods and technologies in the field of science, technology and management in relation to the domains of gas, oil and energy in order to achieve international standards of such education, training and research;
- (iv) to prescribe curricula and provide for flexibility in the education systems and delivery methodology including electronic and distance learning;
- (v) to hold examinations and confer degrees, diplomas or grant certificate and other academic distinction or title on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the prescribed manner;
- (vi) to confer honorary degrees or other distinctions in the prescribed manner;
- (vii) to establish such special centres, specialised study centres or other units for research and instruction as in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide printing, reproduction and publication of research and other works and to organise exhibitions, workshops, seminars, conference, etc.;
- (ix) to sponsor and undertake research in all aspects of science, technology and management in relation to the domains of gas, oil, energy and allied areas;
- (x) to offer executive developmental programmes;
- (xi) to collaborate or associate with, advise, administer, control, develop and maintain any educational institution with like or similar objects;
- (xii) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partly similar to those of the University, through exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects;
- (xiii) to develop and maintain relationships with teachers, researchers and experts in the domains of gas, oil, energy and allied areas in any part of the world for achieving the objects of the University;
- (xiv) to regulate the expenditure, manage the finances and to maintain accounts of the University;
- (xv) to receive grants, subventions, subscriptions, donations and gifts for the purpose of the University and consistent with the object for which the University is established and to enter into any agreement with Central Government, State Government, the University Grants Commission or other authorities or bodies for receiving any grants;

- (xvi) to receive funds from the Industries, national and international organisations or any other sources as gifts, donations, benefactions or bequests by transfer of movable and immovable properties for the purposes and objects of the University;
- (xvii) to establish, maintain and manage halls and hostels for the residence of students and accommodation for faculties, officers and employees of the University and the guest houses;
- (xviii) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xix) to fix, demand and receive or recover fees and such other charges as may be prescribed;
- (xx) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xxi) to purchase or to take on lease or accept as gift or otherwise, any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and to construct, alter and maintain any such buildings or works;
- (xxii) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University under intimation to the State Government;
- (xxiii) to draw and accept, to make and endorse, to discount and negotiate promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxiv) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of money, to repay and redeem any money borrowed under intimation to the State Government;
- (xxv) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University;
- (xxvi) to execute conveyance regarding transfers, mortgages, leases, licenses, agreements and other conveyance in respect of the property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University under intimation to the State Government;
- (xxvii) to admit the students for the courses offered by the University in the prescribed manner;
- (xxviii) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;

- (xxix) to regulate and enforce discipline among the employees of the University and to provide for such disciplinary measures as may be prescribed;
- (xxx) to institute professorships, associate professorships, assistant professorships, readerships, lectureships, endowed professorship, honorary professorships, adjunct professorships and any other teaching, academic or research posts and to prescribe qualifications for them;
- (xxxi) to appoint persons as Professors, Associate Professors, Adjunct Professors, Assistant Professors, Readers, Lecturers, Registrar or otherwise as teachers and researchers of the University;
- (xxxii) subject to the provisions of this Act and regulations, any officer or authority of the University may, by order, delegate his or its powers (except the power to make regulations) to any other officer or authority under his or its control; and
- (xxxiii) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

President.

8. (1) The President of the University shall be appointed by the Society.
- (2) The person to be appointed as President shall,-
 - (i) be an eminent educationalist, technologist, industrialist or administrator having vision for human resources development,
 - (ii) be associated with Gujarat in terms of development, education, philanthropy, industrial or business development or exemplary administration in the State services, corporations or public bodies, and
 - (iii) not have attained the age of sixty-five years on the date of nomination or re-nomination.
- (3) The President shall hold office for a period of three years and shall be eligible for re-nomination for one more term only.
- (4) The other terms and conditions shall be such as may be determined by the Society.
- (5) Where a vacancy in the office of the President occurs on account of death, resignation or otherwise, the Society shall appoint immediately suitable person to be the President in accordance with the provision of sub-section (2).
- (6) The President may resign from his office by writing under his hand addressed to the Chairman of the Society and such a resignation shall take effect from the date of acceptance by the Chairman.
- (7) The President shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, hostels, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finances of the University.

9. The following shall be the authorities of the University, namely: -

- (i) the Board;
- (ii) the Academic Council;
- (iii) the Finance Committee; and
- (iv) such other authorities as may be declared by regulations to be the authorities of the University.

Authorities of University.

10. The following shall be the officers of the University, namely: -

- (i) the President,
- (ii) the Director General,
- (iii) the Directors,
- (iv) the Deans,
- (v) the Registrar, and
- (vi) such other persons as may be declared by regulations to be the officers of the University.

Officers of University.

11. (1) The Board of Governors of the University shall consist of the following members, namely:

- (i) the President, who shall be the Chairman of the Board;
- (ii) the Director General;
- (iii) one Director by rotation to be nominated by the Board;
- (iv) the Dean by rotation to be nominated by the Board;
- (v) the Secretary to Government, Energy and Petrochemicals Department, Government of Gujarat, *ex-officio*;
- (vi) the Secretary to Government, In-charge of Technical Education, Government of Gujarat, *ex-officio*;
- (vii) two expert academicians to be nominated by the Board;
- (viii) one of the members of the Society to be nominated by the Society;
- (ix) two experts representing other disciplines such as finance, legal, management, humanities to be nominated by the Board; and
- (x) three professionals of the oil, gas, energy and allied industries to be nominated by the Board.

(2) The Registrar shall be the Secretary of the Board.

Board of Governors.

12. (1) The Chairman shall preside over the meetings of the Board and the convocation of the University.

Powers of Chairman of Board.

(2) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by or under this Act or regulations.

Powers and functions of Board.

13. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and the control of the affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council and the Finance Committee and other committees or authorities constituted by the University.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely: -

- (i) to take decision on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to consider and approve the annual report and the annual budget of the University for every financial year;
- (v) to invest monies and funds of the University and to take decision on the recommendation of the Finance Committee;
- (vi) to publish or finance the publication of studies, treaties, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;
- (vii) to lay down policies to be pursued by the University;
- (viii) to take such decisions and steps as are found desirable for effectively carrying out the objects of the University;
- (ix) to create or abolish posts of teachers and officers and employees of the University;
- (x) to appoint such committees as it considers necessary for the exercise of its powers and performance of its duties under this Act;
- (xi) to appoint Directors;
- (xii) to delegate any of its powers to the Director General, Directors, Deans, Registrar or any other officers, employee or authority of the University or to a committee appointed by it; and
- (xiii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the regulations, and all such other powers for achieving the objects of the University.

Terms of office and vacancies among members of Board.

14. (1) Save as otherwise provided in this section, the term of a nominated member of the Board shall be three years from the date of his nomination.

(2) An *ex-officio* member shall continue so long as he holds the office by virtue of which he is the member of the Board.

(3) Any vacancy in the Board occurring before the next reconstruction or before the expiry of the prescribed period shall be filled in the same manner as provided in section 11 and such a member shall hold office for the remainder of the term of the member in whose place he is nominated.

(4) A member shall be eligible for re-nomination for the next term.

(5) A member may resign from his office by writing under his hand addressed to the Chairman and his resignation shall take effect from the date it is accepted by the Chairman.

15. (1) The Academic Council of the University shall consist of the following members, namely: -

- (i) the Director General, who shall be the Chairman of the Academic Council;
- (ii) two academicians or professionals to be nominated by the Board;
- (iii) two academicians or professionals in the fields of science, technology or management in relation to the domains of gas, oil or energy to be nominated by the Board;
- (iv) two Deans, by rotation to be nominated by the Director General;
- (v) two Directors, by rotation to be nominated by the Director General;
- (vi) one professor from each discipline of the University, by rotation to be nominated by the Director General.

(2) The Registrar shall be the Secretary of the Council.

(3) The term of office of the members other than the *ex-officio* members, shall be three years.

16. Subject to the provisions of this Act and the regulations, the Academic Council shall have the following powers, namely: -

- (i) to exercise control over the academic policies of the University and be responsible for the maintenance and improvement of standards of instruction education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the Faculty of the University or the Board and to take appropriate action thereon;
- (iii) to recommend to the Board, such regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and
- (iv) to exercise such other powers and perform such other functions as may be conferred upon it by the regulations.

17. (1) The Finance Committee shall consist of the following members, namely: -

- (i) the Director General, who shall be the Chairman of the Committee;
- (ii) one member of the Board to be nominated by the President;
- (iii) one Director, by rotation to be nominated by the Director General;
- (iv) one expert in the field of finance to be nominated by the Board;
- (v) One of the members of the Society to be nominated by the Society;

(2) The Registrar shall be the Secretary of the Committee.

(3) The term of office of the members other than the *ex-officio* members shall be three years.

Powers and
functions of
Finance
Committee.

18. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual account and annual budget estimates of the University and to advise the Board thereon;
- (ii) to review from time to time the financial position of the University;
- (iii) to make recommendations to the Board on all financial policy matters of the University;
- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditures;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget needs to be incurred;
- (vii) to examine all proposals relating to the revision of pay scales, upgradation of the scales and those items which are not included in the budget prior to placing before the Board; and
- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

Director
General.

19. (1) The Director General shall be appointed by the Board out of the panel of three names recommended by the Search Committee.

(2) (a) The Search Committee shall consist of the following members, to be nominated by the Board, namely:-

- (i) an eminent technologist;
- (ii) an eminent educationist; and
- (iii) one of the members of the Board.

(b) The Board shall designate one of the members of the Search Committee to be the Chairman of the Committee.

(3) The term of office of the Director General shall be determined by the Board for a period not exceeding five years.

(4) Whenever any vacancy occurs in the office of the Director General and it can not be conveniently and expeditiously filled up in accordance with the provisions of sub-sections (1) and (2) and if there is any emergency, the Board may appoint any suitable person to be the Director General and may,

from time to time, extend the term of such person for a period not exceeding one year.

(5) The other terms and conditions of the services of the Director General shall be such as may be prescribed by the Board and until so prescribed, shall be determined by the President.

20. (1) The Director General shall be the Chief Executive and Academic Officer of the University. He shall preside over the meetings of the Academic Council and the Finance Committee.

duties of
Director
General.

(2) Without prejudice to the generality of the provision contained in sub-section (1), the Director General shall -

- (i) exercise general supervision and control over the affairs of the University;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instruction and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the regulations or as may be delegated to him by the Board or by the President.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the Chairman or authority or body of the University empowered under this Act to deal with it, the Director General may take such action as he may deem fit and shall forthwith report the action so taken by him to the Chairman or authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not to have been taken by the Director General, it may refer the matter to the Board which may either confirm the action taken by the Director General or annul the same or modify it in such manner as it thinks fit, and thereupon the action shall cease to have effect or, as the case may be, shall take effect in such modified form. However, such modification or annulment shall be without prejudice to the validity of any thing previously done by or under the Order of the Director General.

(4) Where the exercise of the power by the Director General under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment, in accordance with the provisions of this Act and the regulations, not later than six months from the date of order of the Director General, otherwise such appointment shall cease to have effect on the expiration of a period of six months from the date of order of the Director General.

21. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed.

(2) The Registrar shall -

- (i) be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) be responsible to the Director General for the proper discharge of his functions;
- (iv) be responsible for the administration and services of the University; and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) attest and execute all documents on behalf of the University;
- (vi) verify and sign the pleadings in all suits and other proceedings by or against the University. All the processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the regulations or as may be delegated to him by the Board or the Director General.

Directors.

22. (1) The Directors of the institutes or centres of the University shall be appointed by the Director General, with the approval of the Board in such manner and on such terms and conditions as may be prescribed.

(2) The Directors shall assist the Director General in managing the academic, administrative and other affairs of the institutes or centres and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General.

Deans.

23. (1) The Director General, with the approval of the Chairman, shall appoint the Deans of the University from amongst the Faculties of the University.

(2) The Deans shall assist the Director General and respective Directors of the Institutes or Centres in managing the academic and other affairs of the University, Institutes and Centres, and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General.

Permanent
Endowment
Fund of
University.

24. The Society shall place funds at the disposal of the University to be called the Permanent Endowment Fund of sum of five crores of rupees or such sum required for meeting the full operational expenditure of the University, which ever is more, for a period of three years in the form of long term interest bearing securities issued or guaranteed by the Central or the State Government. On the termination of the involvement of the Society and after meeting with the operational expenditure for a period of three years, out of the Permanent Endowment Fund, if there is any unused balance the same shall be paid back to the Society with the previous permission of the State Government.

25. The Society shall pay to the University from time to time such sums of money and in such manner as may be considered necessary for the exercise of powers and discharge of its functions by the University by or under this Act. Payment by Society to University.

26. (1) The University shall have its own funds consisting of – Funds of University.

- (i) the monies provided by the Society;
- (ii) fees and other charges received by the University;
- (iii) the monies received by the University by way of grants, loans, gifts, donations, benefactions, bequests or transfer;
- (iv) the monies received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry for establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and
- (v) the monies received by the University from any other source.

(2) All funds of the University shall be deposited in such bank or invested in such manner as the Board may decide on the recommendation of the Finance Committee.

(3) The Funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

27. (1) The University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the income and expenditure and the balance sheet, in such form and in such manner as may be prescribed. Accounts and audit.

(2) The University shall adopt a proper system of internal checks and balances and controls in the discharge of its financial, accounting and auditing functions as may be prescribed.

(3) The accounts of the University shall be audited every year by an auditor, who shall be a Chartered Accountant as defined in the Chartered Accountant Act, 1949 or a firm of Chartered Accountants, to be appointed by the Board.

38 of 1949.

(4) The accounts of the University certified by the person or firm so appointed or any other person authorised in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accountants appointed by the Board, to ensure concurrent audit of all books of accounts and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare for each financial year an annual report containing such particulars as the Board may specify and submit the same to the Board on or before such date as may be prescribed. The Board shall consider such report and may pass resolutions thereon and thereupon the Finance Committee shall take action in accordance with such resolution. The action

taken by the Finance Committee on such resolutions and if no action is taken, the reasons for not taking any action shall be communicated to the Board.

(7) The copy of the annual report along with the resolution of the Board thereon shall be submitted to the State Government.

Pension,
Provident
Fund, etc.

28. (1) The University shall, with the approval of the Board, constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions as may be prescribed, such schemes of pension, provident fund and insurance as it may deem fit, and also aid in establishment and support of the associations, institutions, funds, trusts and conveyance calculated to the benefit of the officers, teachers and employees of the University.

(2) Where any such provident fund has been constituted, the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a ^{19 of 1925.} Government Provident Fund.

Acts and
proceeding
not to be
invalidated
by
vacancies.

29. No act or proceeding of the Board or any authority of the University or any Committee constituted under this Act or by regulations shall be questioned on the ground merely of the existence of any vacancy in or defect of, in the constitution of such Board, authority or Committee of the University.

Conferment
of degrees,
diplomas
and grant of
certificates
by
University.

30. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, diplomas and grant certificates and confer honorary degrees and other academic distinctions and titles as approved by the Board.

Returns and
information.

31. The University shall furnish to the State Government, University Grants Commission and other statutory authorities such reports, returns, statements and other information as may be required by them from time to time.

Management
of University
on dissolution
of the Society.

32. The Society shall give a notice of not less than six months period to the State Government of its intention to dissolve the Society. Upon receipt of any such notice from the Society, the State Government shall make arrangements for the administration of the University from the date of dissolution of the Society till the last batch of students in regular courses of the University complete their courses. The expenditure for administration of the University during the taking over period of its management by the State Government shall be met out of the Permanent Endowment Fund of the University. If there is no fund or the funds are not sufficient to meet with the expenditure of the University, the State Government may dispose of the properties of the University to meet the expenditure of the University.

33. Every officer, teacher and employee of the University shall be deemed Officers and to be a public servant within the meaning of section 21 of the Indian Penal Code.

employees to be public servants.

Explanation.- For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or, who received any remuneration by way of allowances or fee for any work done from the University Fund, shall be deemed to an officer or employee of the University while he is performing the duties and functions connected with such appointment of work.

34. (1) No officers or employees or member of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Dismissal, removal, reduction or termination of services of staff of University.

(2) An appeal against an order of dismissal, removal or reduction in rank under sub-section (1) or of termination of service shall be made to the President within ninety days from the date of communication of such order and the decision of the President in such appeal shall be final.

35. The State Government shall have power to issue directions from time to time as may be required for compliance of the provisions of this Act, the regulation and under any other law for the time being in force and the University shall be bound to comply with such directions.

Power to give directions.

36. (1) Subject to the provisions of this Act, the Board shall have, in addition to all other powers vested in it, the powers to make regulations to provide for the administration and management of the affairs of the University.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board, and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the President and the Chairman of the Board;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment; and removal of members thereof and other matters connected therewith;

- (iv) the procedure to be followed by the Board and any Committee or other body constituted by or under this Act in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedures and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the diplomas, degrees, certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations;
- (x) the creation of posts of Directors, Professors, Associate Professors, Assistant Professors, Readers, Lectures or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including the qualifications requisite therefore;
- (xi) the fees and other charges to be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of insurance, pension and provident funds and such other schemes for the benefits of officers, teachers and employees of the University;
- (xiii) the terms and conditions for association of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreements by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers, employees and other staff of the University;
- (xvii) the terms and conditions and tenure of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Director General, Director, officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of teachers, officers and employees of the University;
- (xix) the powers and duties of the Director General, Director and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowships, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and the decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence and housing for faculties, officers and employees and guest house including disciplinary control therein; and
- (xxiii) all matters which, by this Act, are to be or may be prescribed.

37. Notwithstanding anything contained in this Act, the Director General may, with the prior approval of the President and subject to availability of the funds, discharge all or any of the functions of the University for the purpose of carrying out the provisions of this Act and the regulations and for that purpose, may exercise any powers or perform any duties which by or under this Act and regulations are to be exercised or performed by any authority of the University until such authority comes into existence in accordance with the provisions of this Act and the regulations. The Society shall review and monitor such actions taken by the Director General. Transitory Provisions.

38. No suit, prosecution or other legal proceeding shall lie against and no Indemnity. damage shall be claimed from the University, the President, the Director General, the Directors, the authorities or officers or employees of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any regulations made thereunder.

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing difficulties: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Since long, it was felt that there is a genuine need to create sound infrastructure in the State of Gujarat for development of knowledge of science, technology, management and environment for the advancement of quality of life of the mankind in general and in relation to the domains of gas, oil, energy and allied areas in particular. It was also felt that such education would ensure substantial flow of professionally trained manpower to cater to the needs of the State of Gujarat. With a view to improving the quality of manpower in these domains, it is considered necessary to establish a national level University of excellence of higher learning in the State. This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain in brief, some of the important provisions of the Bill: -

- Clause 1.-** This clause provides for short title and commencement.
- Clause 2.-** This clause defines certain terms used in the Bill.
- Clauses 3 and 6.-** These clauses provide for the establishment, incorporation and objects of the University.
- Clause 7.-** This clause provides for the powers and functions of the University.
- Clause 8.-** This clause provides for the appointment of the President of the University.
- Clauses 9 and 10.-** These clauses relate to authorities and officers of the University.
- Clauses 11, 12 and 13.-** These clauses relate to the constitution of Board of Governors, powers of Chairman of the Board and powers and functions of the Board.
- Clauses 15 and 16.-** These clauses provide for the constitution and powers and functions of the Academic Council.
- Clauses 17 and 18.-** These clauses provide for the constitution and powers and functions of the Finance Committee.
- Clauses 19 and 20.-** These clauses provide for appointment, powers and functions of the Director General of the University.
- Clause 21.-** This clause provides for appointment, powers and functions of the Registrar of the University.
- Clause 22.-** This clause provides for the appointment, powers and functions of the Directors.
- Clause 23.-** This clause provides for the appointment, powers and functions of the Deans of the University.
- Clauses 24 and 25.-** These clauses relate to the Permanent Endowment Fund of the University and payment to the University.
- Clause 26.-** This clause provides for the funds of the University.

Clause 27.- This clause provides for the preparation of annual financial report, annual accounts and audit.

Clause 28.- This clause provides for pension, provident fund and insurance of officers, teachers and other employees of the University.

Clauses 30 and 31.- This clause provides for the conferment of degrees and diplomas and grant of certificates by the University and returns and information to be furnished to the State Government.

Clause 32.- This clause provides for the management of the University on dissolution of the Society.

Clause 35.- This clause provides for the powers of the State Government to give directions as may be required from time to time.

Clauses 36 to 39.- These clauses relate to making of regulations, transitory provisions, indemnity and power to remove difficulties.

SAURABH PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:-

Clause 1.— Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 4.— This clause empowers the State Government to specify by notification in the *Official Gazette*, the place of headquarters of the University.

Clause 7.— (i) Sub-Clause (iv) of this clause empowers the University to prescribe the curricula;

(ii) Sub-clause (v) of this clause empowers the University to determine the conditions subject to which it may confer degrees and diplomas and grant certificate; it also empowers the Board to prescribe by regulations, the manner in which the University may withdraw or cancel any such degree, diploma or certificate conferred or granted by it;

(iii) Sub-clause (vi) empowers the Board to prescribe by Regulations, the manner in which the University may confer honorary degrees or other academic distinctions;

(iv) Sub-clause (xix) empowers the Board to fix the fees and such other charges and to prescribe by Regulations, subject to which the University shall demand, receive or recover such fees and other charges;

(v) Sub-clause (xxvii) empowers the Board to prescribe by Regulations, the conditions ad the manner subject to which the students shall be admitted;

(vi) Sub-clause (xxix) empowers the Board to prescribe by Regulations, the manner in which the discipline shall be enforced and regulated amongst the employees of the University;

(vii) Sub-clause (xxix) empowers the Board to prescribe by Regulations, the qualifications for appointment of the persons teaching, academic or research.

Clause 8.—Sub-clause (4) of this clause empowers the Society to determine such other terms and conditions of service of the President of the University.

Clause 9.—Sub-clause (iv) of this clause empowers the Board to declare by Regulations, such other authorities to be the authorities of the University.

Clause 10.—Sub-clause (vi) of this clause empowers the Board to declare by Regulations, such other persons to be the officers of the University.

Clause 12.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Chairman.

Clause 13.- (i) Item (iii) of sub-clause (2) of this clause empowers the Board to make regulations for carrying out the purposes of the Act;

(ii) Item (xiii) of sub-clause (2) of this clause empowers the Board to prescribe by Regulations, the other powers which may be exercised and the other duties which may be performed by the Board to achieve the objects of the University.

Clause 14.- Sub-clause (3) of this clause empowers the Board to prescribe by Regulations, the period for filling up of the vacancy occurring before the next reconstitution or before expiry period of the Board.

Clause 16.- Sub-clause (iv) of this clause empowers to prescribe by regulations, the manner in which the Academic Council shall exercise such other powers and perform such other duties as may be conferred or imposed upon it.

Clause 18.- Sub-clause (viii) of this clause empowers the Board to prescribe by regulations, the manner in which the Finance Committee shall exercise such other powers and perform such other duties as may be conferred or imposed upon it

Clause 19.- Sub-clause (5) of this clause empowers the Board to prescribe by regulations, the other terms and conditions of services of the Director General.

Clause 20.- Para (iv) of sub-clause (2) of this clause empowers the Board to prescribe by regulations, the manner in which the Director General shall exercise such other powers and perform such other duties as may be conferred or imposed upon it.

Clause 21.- Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and the terms and conditions on which the Registrar shall be appointed.

Clause 22.- (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and the terms and conditions on which the Directors of institutes or centres shall be appointed;

(ii) sub-clause (2) empowers the Board to prescribe by regulations, the manner in which the Directors of institutes shall exercise such other powers and perform such other functions as may be entrusted to them by the Director General.

Clause 23.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, the manner in which the Deans of the respective faculties shall exercise such other powers and perform such other functions as may be entrusted to them by the Director General.

Clause 27.- (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which proper accounts, other relevant records, annual statement of accounts, the income and expenditure statement /account and balance sheet shall be maintained;

(ii) sub-clause (2) empowers the Board to prescribe by regulations, the manner in which the University shall discharge the financial, accounting and auditing functions;

(iii) sub-clause (6) empowers the Board to prescribe by regulations, the date on or before which annual report containing such particulars shall be submitted to the Board.

Clause 28.- Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and conditions subject to which the University shall constitute such schemes of pension, provident fund and insurance.

Clause 36.- Sub-clause (1) of this clause empowers the Board to make regulations for administration and management of affairs of the University; and sub-clause (2) empowers the Board to make regulations for all or any of the matters specified therein.

Clause 37.- This clause empowers the State Government to make an Order, by publishing in the *Official Gazette*, for removing any difficulty arising within the first two years in giving effect to the provisions of this Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 15th February, 2007.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 17th February, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT INDUSTRIAL DEVELOPMENT (AMENDMENT AND VALIDATION) BILL, 2007. GUJARAT BILL NO. 5 OF 2007.

A BILL

further to amend the Gujarat Industrial Development Act, 1962 and to validate the levy and collection of development charges.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Industrial Development (Amendment and Validation) Act, 2007. Short title.

2. In the Gujarat Industrial Development Act, 1962 (hereinafter referred to as "the principal Act"), in section 14, after clause(c), the following clause shall be and shall be deemed always to have been inserted, namely:- Amendment of section 14 of Guj. XXIII of 1962.

"(cc) to levy and collect development charges on the land which is not vested in or under the control of the Corporation and which is benefited or likely to be benefited by the development or scheme or the work undertaken by the Corporation."

3. In the principal Act, for Chapter VI-A, the following Chapter shall be and shall be deemed always to have been substituted, namely:- Substitution of Chapter VI-A of Guj. XXIII of 1962.

"CHAPTER VI-A.**LEVY OF DEVELOPMENT CHARGES**

Levy of development charges.

32A. Where any land is developed or any scheme or work is undertaken by the Corporation under the provisions of this Act and any other land not vesting in or under the control of the Corporation is benefited or is likely to be benefited by such development, scheme or the work, the Corporation may, by resolution, determine the development charges and levy and collect the development charges on such land in such manner as may be prescribed by regulations.

Appeal.

32B. (1) Any person aggrieved by the order of the Corporation levying the development charges under section 32A, may prefer an appeal to the State Government within such period, accompanied by such fees and in such manner as may be prescribed.

(2) The State Government may, after giving an opportunity of being heard to the appellant and the Corporation, pass such order thereon as it deems fit and proper.

(3) The decision of the State Government on such appeal shall be final.”.

Validation of levy and collection of development charges.

4. (1) Notwithstanding anything contained in the principal Act, any resolution passed by the Corporation determining the rate of development charges and the development charges levied and collected or purported to have been levied or collected on the land, other than the land not vested in or under the control of the Corporation which is benefited or likely to be benefited by the development, scheme or the work undertaken by the Corporation, shall be and shall be deemed always to have been validly passed and validly levied and collected by the Corporation in accordance with law as if the provisions of the principal Act as amended by this Act had been in force at all material times when such resolutions passed or such charges were levied and collected; and accordingly, -

(a) no suit, appeal or other proceedings shall be maintained or continued in any court or before any authority against the Corporation for the refund of aforesaid development charges.

(b) no court or other authority shall enforce any decree or order directing the refund of the said development charges.

(c) any resolution passed by the Corporation determining the development charges and the levy and collection of the said development charges shall have and shall be deemed to have effect for all the purposes and recoveries of such development charges shall be made in accordance with the provisions of the principal Act as amended by this Act.

(d) any amount paid as development charges or development expenses shall be deemed to have been paid as development charges in accordance with the provisions of the principal Act as amended by this Act.

(2) For the removal of doubt, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person,-

(a) from questioning, in accordance with the provisions of the principal Act as amended by this Act, the levy and collection of aforesaid development charges, or

(b) from claiming, in accordance with the provisions of the principal Act as amended by this Act, the refund of such development charges paid by him in excess of the amount due from him.

STATEMENT OF OBJECTS AND REASONS

The Chapter VI-A inserted in 1968 in the Gujarat Industrial Development Act, 1962 provides for levy of betterment charges on any land which is benefited or likely to be benefited by the development or the scheme or the work undertaken by the Gujarat Industrial Development Corporation after following the procedure laid down in that Chapter. The development charges are being levied on such land at the rate fixed by the Corporation by passing a resolution.

A doubt has arisen, in a writ petition filed in the High Court of Gujarat, about the competency to levy the development charges by the Corporation on such lands.

With a view to removing the infirmities and to explicit the intent of the Government, it is proposed to substitute Chapter VI-A of the Act with retrospective effect so as to empower the Corporation to levy and collect the development charges in place of betterment charges, at the rate fixed by the Corporation and in the manner prescribed by regulations and also to validate such development charges levied and collected by the Corporation in the past. A provision has been made for filing an appeal to the State Government against the order of the Corporation levying the development charges on land.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

ANIL PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 3.- (i) New section 32 A proposed to be inserted by this clause empowers the Corporation, to determine by resolution, the rate of development charges and to prescribe by regulations, the manner of levying the development charges;

(ii) new section 32B proposed to be inserted by this clause empowers the State Government to prescribe by rules, the period within which, the fee for which and the manner in which, an appeal may be filed to the State Government against the order of the Corporation.

The delegation of the legislative powers as aforesaid is necessary and is of a normal charges.

Dated the 21st February, 2007.

ANIL PATEL.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Gandhinagar,
Secretary to the Government of Gujarat,
Dated the 21st February, 2007. Legislative Parliamentary Affairs Department.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT INDUSTRIAL DEVELOPMENT
(SECOND AMENDMENT) BILL, 2007.**

GUJARAT BILL NO. 6 OF 2007.

A BILL

further to amend the Gujarat Industrial Development Act, 1962.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Industrial Development (Second Amendment) Act, 2007.

Short title
and
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment
of section 16
of Guj. XXIII
of 1962.

Guj XXIII
of 1962.

2. In the Gujarat Industrial Development Act, 1962 (hereinafter referred to as "the principal Act"), section 16 shall be renumbered as sub-section (1) of that section.

(1) in sub-section (1) as so renumbered, in clause (b), after the words "committee thereof", the words and brackets "or a committee consisting of such persons (hereinafter referred to as "the Board of Management") as the State Government may think fit" shall be inserted;

(2) after sub-section (1), the following sub-section shall be added, namely:-

"(2) The Constitution of the Board of Management, the qualifications, terms and conditions and the manner of appointment of the members of the Board of Management and other powers and functions of the Board of Management shall be such as may be prescribed."

Insertion of new
section 16A in
Guj.XXIII of
1962.

3. In the principal Act, after section 16, the following section shall be inserted, namely:-

Director of
Notified
Areas.

"16A. (1) For the purpose of uniformity and providing efficient management in the notified areas, the Corporation shall appoint an officer of the Corporation not below the rank of General Manager to be the Director of Notified Areas.

(2) The powers, functions and duties of the Director of Notified Areas shall be such as may be prescribed.

(3) An officer or the committee of the Corporation or the Board of Management appointed under clause (b) of sub-section (1) of section 16 shall exercise the powers under the superintendence, direction and control of the Director of Notified Areas."

STATEMENT OF OBJECTS AND REASONS

Under section 16 of the Gujarat Industrial Development Act, 1962, the Corporation or its officer or committee thereof can only be appointed for the purposes of assessment and recovery of any taxes when imposed under the relevant provisions applicable to the notified areas and for enforcing such provisions. However, different Industrial Associations have represented to appoint a committee consisting the members of the Industries and residential zone of the area along with the Officials of the Corporation for this purpose. The State Government has accepted the proposal. It is, therefore, proposed to amend section 16 of the Act so as to include a provision regarding appointment of the Board of Management for the purpose of assessment and recovery of any taxes. Clause 2 of the Bill provides for the same.

In order to maintain uniformity in administration and efficient management of notified areas, it is proposed to appoint a "Director of Notified Areas" to supervise, direct and control the functioning of such areas. New section 16A is proposed to be inserted in the Act for this purpose.

This Bill seeks to amend the said Act to achieve the aforesaid object.

ANIL PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provides for delegation of legislative powers in the following respects, namely:-

Clause 1. - Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2. - Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the Board of Management shall be constituted, the qualifications, terms and conditions and the manner of appointment of members of the Board of Management and other powers and functions of the Board of Management.

Clause 3. - This clause empowers the State Government to prescribe by rules, the powers, functions and duties of the Director of Notified Areas.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st February, 2007.

ANIL PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st February, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT AGRICULTURAL PRODUCE MARKETS (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 7 OF 2007.

A BILL

for further to amend the *Gujarat Agricultural Produce Markets Act, 1963*.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Agricultural Produce Markets (Amendment) Act, 2007. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of
Guj. XX
of 1963.

Guj. XX
of 1963.

2. In the Gujarat Agricultural Produce Markets Act, 1963 (hereinafter referred to as "the principal Act"), in section 2,-

(1) after clause (v), the following clauses shall be inserted, namely:-

"(v-aa) "contract farming" means farming by a person under a written agreement with agriculturist to the effect that his agricultural produce shall be purchased as specified in the agreement;

(v-aaa) "Contract Farming Agreement" means an agreement made for contract farming between the sponsorer and agriculturist;";

(2) after clause (vi), the following clauses shall be inserted, namely:-

"(vi-a) "e market" means a virtual platform created using information and communication technology for marketing activities in agricultural produce such as billing, booking, contracting, negotiating, information exchange, record keeping and other connected activities as are done electronically on computer network or internet;

(vi-aa) "export" means dispatch of agricultural produce outside the territory of India;

(vi-aaa) "exporter" means such person or firm who exports agricultural produce;

(vii-a) "import" means bringing agricultural produce from outside the territory of India;

(vii-aa) "importer" means such person or firm who imports agricultural produce from outside the territory of India;";

(3) for clause (xii), the following clauses shall be substituted, namely:-

"(xii) "Managing Director" means the Managing Director of the Gujarat State Agricultural Marketing Board appointed under section 34I;

(xii-a) "market" means a market established and regulated under this Act for the notified market area and also includes a market proper, a principal market yard, sub-market yard, private market, e-market and such other markets as may be declared under this Act;";

(4) after clause (xiii), the following clause shall be inserted, namely:-

"(xiii-a) "market service charges" means the charges on account of or in respect of commission, brokerage, weighing, measuring, *hammali* (loading, unloading, and carrying), cleaning, drying, sieving, stitching, stacking, hiring, gunny bags, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing and such other charges as the Director may by order in the *Official Gazette*, specify;";

(5) after clause (xiv), the following clause shall be inserted, namely:-

“(xiv-a) “market functionary” means a trader, a commission agent, buyer, *hamal*, processor, a stockiest and such other person as the State Government may by order in the *Official Gazette*, declare;”;

(6) after clause (xvi), the following clauses shall be inserted, namely:-

“(xvi-a) “prescribed authority” means an officer, an agency or the organization as the State Government may by order in the *Official Gazette*, appoint;

(xvi-aa) “private market” means the market for which the licence has been granted under Chapter IVA;”;

(7) after clause (xvii), the following clauses shall be inserted, namely:-

“(xvii-aa) “processing” means any one or more of a series of treatments relating to powdering, crushing, decorticating, dehusking, parboiling, polishing, ginning, pressing, curing or any other manual, mechanical, chemical or physical treatment to which raw agricultural produce or its product is subjected to;

(xvii-aaa) “processor” means a person who undertakes processing of any agricultural produce on his own accord or on payment of a charge;

(xvii-aaaa) “registration” means registration granted under section 31B;”;

(8) after clause (xx), the following clause shall be inserted, namely:-

“(xx-a) “special market” means a market declared as such under section 31M;”;

(9) after clause (xxiii), the following clauses shall be inserted, namely:-

“(xxiii-a) “transportation” means carriage of agricultural produce by any means of transport from one place to another;

(xxiii-aa) “transporter” means a person who transports agricultural produce;

(xxiii-aaa) “value addition” means processing, grading, packing or other activities due to which value is added to the agricultural produce;”.

3. In the principal Act, in section 6, in sub-section (1), for the words “After the expiry”, the words “Save as otherwise provided in this Act, after the expiry” shall be substituted.

Amendment
of section 28
of Guj. XX
of 1964.

4. In the principal Act, section 28 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

“(2) (a) The market fee specified in sub-section (1) shall not be levied for the second time in any market area from the buyer who is a processor, grader, packer, value addition centre or exporter of an agriculture produce and market fee has already been paid on that agricultural produce in any market and the information in this context has been furnished, as prescribed, by the person concerned that the payment of market fee has already been made in other market, provided such proof as may be prescribed is furnished to the Director by the buyer who is doing processing, grading, packing, value addition or export within such period as may be prescribed by the Government.

(b) On the agricultural produce brought in the market area for commercial transaction or for processing, if the permit issued under clause (e) has not been submitted, the market fee shall be deposited by the buyer or processor, as the case may be, in the office of the market committee, within fourteen days but before sale or resale or processing or export outside the market area:

Provided that in case any agricultural produce is found to have been processed, sold or resold or dispatched outside the market area without payment of market fee payable on such produce, the market fees shall be levied and recovered on five times the market value of the processed produce or value of the agricultural produce, as the case may be.

(c) The market fee shall be payable by the buyer of the agricultural produce and shall not be deducted from the price payable to the agriculturist seller:

Provided that where the buyer of a agricultural produce cannot be identified, all the fees shall be payable by the person who may have sold or brought the produce for sale in the market area:

Provided further that in case of commercial transactions between traders in the market area, the market fee shall be collected and paid by the seller.

(d) The market functionaries, as the market committee may by bye-laws specify and in the case of market established under Chapter IVA of this Act as the Director may specify, shall maintain accounts relating to sale and purchase or processing or value addition in such manner as may be prescribed and submit to the market committee, the periodical returns, as may be prescribed.

(e) Any agricultural produce shall be removed out of the market area only in the manner and in accordance with the permit issued in such form, as may be prescribed. The vehicle carrying agricultural produce shall be accompanied by such proofs as may be prescribed:

Provided that the producer of the agricultural produce himself may remove the agricultural produce from one place to another without such permit.

5. In the principal Act, after section 28, the following section shall be inserted, namely:-

Insertion of new section 28A in Guj. XX of 1964.

“28A. The State Government may, by notification published in the *Official Gazette*, and subject to such conditions and restrictions, if any, as may be specified therein exempt in whole or part any agricultural produce brought for sale or bought or sold in the market area specified in such notification, from the payment of market fee for such period as may be specified.”.

Power to grant exemption from payment of market fee.

6. In the principal Act, after section 31, the following Chapter and sections shall be inserted, namely:-

Insertion of new sections 31A to 31R in Guj. XX of 1964.

“CHAPTER IVA

PRIVATE MARKET, SPECIAL MARKET, E-MARKET, DIRECT PURCHASE MARKET, FARMER-CONSUMER MARKET AND CONTRACT FARMING.

31A. Notwithstanding anything contained in any other provisions of this Act, the provisions contained in this Chapter shall apply to the private market, special market, e-market, direct purchase market, farmer-consumer market and contract farming.

Special provisions relating to private market and other markets.

31B. (1) Any person who, in respect of agricultural produce, desires to operate in the market area as a trader, commission agent, weighman, *hamal*, surveyor, warehouseman, contract farming buyer, owner or occupier of processing factory or such other market functionary, shall apply to the managing body of the respective market for registration or renewal of registration in such manner and within such period as may be prescribed:

Registration of market functionaries.

Provided that the State Government may, by notification in the *Official Gazette*, exempt such persons or class of persons from the requirement of registration for such period as may be specified:

Provided further that any person who desires to trade or transact in any agricultural produce in more than one market areas, shall apply for registration to the Director.

(2) Every such application shall be accompanied by such fee as may be prescribed.

(3) The managing body or, as the case may be, the Director may refuse to register or renew the registration on the basis of one or more of the following reasons, namely:-

- (i) if not accompanied by the prescribed fee;
- (ii) dues of the market committee are outstanding against the applicant;
- (iii) the applicant is a minor or not bonafide;
- (iv) the applicant is a defaulter of dues payable under this Act and rules or bye-laws made thereunder; or
- (v) any other reasons as may be prescribed.

(4) (i) If the application received under sub-section (1) fulfills all the requirements, it shall be disposed of by the managing body or as the case may be, the Director within a period of four weeks. Where the managing body or as the case may be, the Director fails to dispose of application within a period of four weeks, the applicant shall request in writing the managing body or as the case may be, the Director, for disposal of his application, and also inform in writing to the Director, in case of application made to the managing body or to the State Government, in case of application made to the Director.

(ii) If the application is not disposed of, within a period of two weeks from the date of receipt of request made under clause (i), the registration or as the case may be its renewal shall be deemed to have been granted.

(iii) The State Government in case of Director or, as the case may be, the Director in case of the managing body shall, on the basis of information received by him and after the expiry of period of two weeks, confirm that the application for registration or the renewal was submitted to the managing body or, as the case may be, the Director and that due action has not been taken by the managing body or, as the case may be, the Director for disposal of the said application, then-

- (a) the Director, in case of the application made to the managing body, shall issue a certificate granting deemed registration or its deemed renewal within the period of two weeks;
- (b) the State Government, in case of the application made to the Director, shall direct the Director to issue a certificate granting deemed registration or its deemed renewal within the period of two weeks.

31C. (1) Any person who desires to establish a private market or an e-market or to purchase agricultural produce directly from the agriculturist in one or more market areas, shall apply to such authority, in such form, in such manner and accompanied by such fee as may be prescribed.

(2) The prescribed authority may grant or renew licence on such terms and conditions as may be prescribed for –

- (a) establishing a private market for-

Establish-
ment of
Private
Market, e-
market, direct
purchase from
agriculturist.

- (i) process of the agricultural produce;
- (ii) trade of fruits and vegetables;
- (iii) export of agricultural produce; or
- (iv) grading, packing and adding value in any other way to the agricultural produce,

- (b) establishing an e-market, or
- (c) purchasing agricultural produce directly from the agriculturist in one or more market areas.

Levy of market fees.

31D. (1) The managing body of the private market, e-market and the markets established under section 31M shall levy and collect the fees on the agricultural produce referred to in clause (a) of sub-section (1) of section 31C brought or transacted in the private market, e-market and the markets established under section 31M at such rate and in such manner as may be prescribed.

(2) No market fee shall be levied for second time in any market area for agricultural produce on which market fee has been paid in a private market, e-market and the markets established under section 31M on production of such proof as may be prescribed.

(3) The private market, e-market and the markets established under section 31M which has collected the fee under sub-section (1), shall contribute to the Development Fund established under section 34L, such percentage of fees in such manner, as may be prescribed.

(4) In case of e-market, the market fee shall be paid by the buyer on the purchase of goods at such rate and in such manner, as may be prescribed. Out of the fees so collected, such percentage of fees as may be prescribed shall be contributed to the Development Fund established under section 34L.

(5) Where the agricultural produce is purchased directly from the agriculturist, the market fee shall be paid to the market committee constituted under section 11 from whose market area the agricultural produce has been bought and removed.

31E. (1) Any person who desires to establish a Farmer-Consumer market shall apply to such authority, in such form, in such manner and accompanied by such fee as may be prescribed.

Establishment of farmer-consumer market.

(2) The prescribed authority may grant or renew licence to establish Farmer-Consumer market on such terms and conditions, as may be prescribed. The person to whom a licence has been granted shall develop necessary infrastructure and at such place, producer of agricultural produce himself may, as may be prescribed, sell his produce directly to the consumer:

Provided that the consumer shall not purchase in excess of such quantity of commodity at a time in the market as may be prescribed.

(3) No market fee shall be levied on the transactions undertaken in the Farmer-Consumer market.

(4) The proprietor of the Farmer-Consumer market may charge such amount from the buyer for the services provided by him at such rate as may be prescribed.

Rejection of application for grant or renewal of licence.

31F. An application received under section 31C and 31E for grant or renewal of licence may be rejected for the reasons recorded in writing by the prescribed authority, on the basis of one or more of the following reasons, namely, :-

- (i) the application is not accompanied by the prescribed fee;
- (ii) the dues of the managing body are outstanding against the applicant;
- (iii) the applicant is a minor or not bonafide;
- (iv) the applicant is a defaulter of the dues payable under this Act, rules or the bye-laws made thereunder; or
- (v) any other reasons as may be prescribed.

Grant of common licence.

31G. (1) Any person who desires to obtain a common licence for the purpose of purchase of a minimum prescribed quantity of agricultural produce from not less than five markets shall apply to the Director, in such form and in such manner and accompanied by such fee as may be prescribed.

(2) On receipt of application under sub-section (1), the Director may, after making such inquiry as he may deem fit, grant a common licence subject to such terms and conditions as may be prescribed.

Power to suspend or cancel licence or registration.

31H. (1) The managing body or, as the case may be, the Director who has issued the licence or the registration, may, for the reasons to be recorded in writing, suspend or cancel the licence or the registration, if,-

- (a) the licence or the registration has been obtained through willful misrepresentation or fraud;
- (b) the holder of the licence or the registration or his servant commits a breach of any of the terms or conditions of the licence or the registration;
- (c) the holder of the licence or the registration in combination with other licence or registration holder commits any act or abstains from carrying on his normal business in the market area with the intention of willfully obstructing, suspending or stopping the marketing of agricultural produce in the market yard or sub-market yard and in consequence whereof the marketing of any agricultural produce has been obstructed, suspended or stopped;
- (d) the holder of the licence or the registration has become an insolvent; or

(e) the holder of the licence or the registration incurs any disqualification, as may be prescribed.

(2) No licence or registration shall be suspended or cancelled under sub-section (1) without giving a reasonable opportunity to its holder to show cause against such suspension or cancellation.

31-I. (1) Any person aggrieved by an order of the managing body or, as the case may be, the Director, passed under section 31B, section 31F or section 31G, as the case may be, may prefer an appeal within thirty days of the receipt of the order in such form and in such manner as may be prescribed, Appeal.

(a) to the Director, if such order is passed by the managing body; and

(b) to the State Government, if such order is passed by the Director.

(2) The Appellate Authority, if it considers it necessary so to do, grant a stay of the order appealed against as it may deem fit.

(3) The order passed by the managing body or, as the case may be the Director shall, under section 31B, section 31F or section 31G, subject to the order in the appeal under this section be final.

31J. (1) The dispute between the private market, the special market, the ~~private~~ market, the direct purchase market, the farmer-consumer market, contract farming or the market committee shall be referred to an officer authorised by the State Government in this behalf. Redressal of disputes between markets.

(2) The authorized officer after giving opportunity of being heard to the parties may resolve the dispute and the decision given by the authority under sub-section (1) shall be final.

31K. (1) The Director or an officer authorized by the State Government in this behalf may, for the purposes of this Chapter, require any person carrying on business in any kind of agricultural produce to produce before him the accounts and other documents and to furnish any information relating to stocks of such agricultural produce or purchase, sale, processing, value addition and delivery of such agricultural produce by such person and also to furnish any other information relating to payment of market fees. Power to order production of accounts of entry, inspection and seizure.

(2) All accounts and registers maintained by any person in the ordinary course of business of any agricultural produce and documents relating to stocks of such agricultural produce or purchase, sale, processing, value addition of such agricultural produce in his possession and offices, establishment, godowns, vessels or vehicles of such persons shall be kept open for inspection at all reasonable time by the Director or such officer.

(3) If the Director or such officer has reason to believe that any person is attempting to evade the payment of any market fee due from him under this Chapter or

that any person has purchased, sold, processed or value added to any agricultural produce in contravention of any of the provisions of this Act or the rules or the byelaws, he may seize such accounts, registers or documents of such a person, as may be necessary, and shall grant a receipt for the same and shall retain the same only so long as may be necessary for examination thereof or for prosecution.

(4) For the purposes of sub-section (2) or sub-section (3), the Director or such officer may enter or search any place of business, warehouse, office, establishment, godown, vessel or vehicle where the Director or such officer has reason to believe that such person keeps or for the time being has kept accounts, registers or documents of his business or stock of agricultural produce relating to the business.

(5) The provisions of sub-sections (4) to (8) of section 100 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to a search or seizure made under this section.

2 of 1974.

(6) Where any books of accounts or other documents are seized from any place and there are such entries therein making reference to quantity, quotations, rates, receipts or payment of money or sale or purchase of goods, such books of accounts or other documents shall be admitted in evidence and such entries shall be the *prima facie* evidence of matters, transactions and accounts purported to have been recorded therein.

Submission of audited annual accounts and statement of transactions.

31L. Every trader, processor, proprietor of a private market, farmer-consumer market, the e-market, the direct purchase market, contract farming or commission agent, carrying on business of agricultural produce shall, before the 30th June, every year submit to the Managing Director, audited annual accounts and a statement of transactions undertaken by or through him during the previous financial year, in the manner as may be prescribed.

Special market and special commodity market.

31M. (1) The State Government may, by notification published in the *Official Gazette*, declare any market area as 'Special Market' or 'Special Commodity Market' having regard to the factors such as turnover, area, nature of produce, special infrastructure requirements of particular commodity and such other factors as it may deem fit, also in addition to the existing market.

(2) Notwithstanding anything contained in sub-section (1) of section 11, the State Government may by notification in the *Official Gazette*, establish separate market committee for effective implementation of provisions of this Act for the market notified under sub-section (1).

(3) All provisions relating to the market committee made in the Act shall *mutatis mutandis* apply to the market committee established under sub-section (2).

Constitution of market committee for special market special commodity market.

31N. (1) Notwithstanding anything contained in sub-section (1) of section 11, every market committee for special market or special commodity market shall consist of following members, namely:-

- (i) The Chairman, to be nominated by the State Government;
- (ii) The Vice-Chairman, to be nominated by the State Government;
- (iii) not more than five agriculturists, to be nominated by the State Government from amongst the agriculturist residing in the State;
- (iv) not more than five traders, to be nominated by the State Government from amongst the traders holding trading licence in any market committees in the State. Out of the traders so nominated, at least two shall be the licence holders from the market committee of special market or special commodity market;
- (v) The Municipal Commissioner or his nominee of the area where the special market or special commodity market is located, *ex-officio*;
- (vi) The Collector of the District in which special market or special commodity market is located, or his nominee, *ex-officio*;
- (vii) The Chief Town Planner or his nominee, *ex-officio*;
- (viii) The Registrar of Co-operative Societies or his nominee, *ex-officio*;
- (ix) The Director or his nominee, *ex-officio*;
- (x) Executive Member, to be appointed by the State Government, who shall be the Secretary of the market committee;
- (xi) The Agricultural Marketing Advisor to the Government of India or his nominee, *ex-officio*;

(2) The members of the market committee, other than *ex-officio* members, shall hold office during the pleasure of the State Government.

(3) The market committee shall meet at least once in three months.

310. (1) There shall be Executive Committee of the Market Committee of the Special Market or Special Commodity Market consisting of -

- (i) one representative of the traders holding the trading licence in the market committee of Special Market Special Commodity Market, nominated by the Director;
- (ii) one representative of agriculturists; to be nominated by the Director; the Registrar of Co-operative Societies, Gujarat State or his nominee,

Executive Committee for special market.

- (iv) the Director or his nominee.
- (v) executive-member of the Market Committee who shall be the Member-Secretary of the Executive Committee.

(2) In case of emergency, the Executive Committee may decide issues requiring approval of the Market Committee. However, such decisions shall have to be approved by the Market Committee within 45 days from the date of such decisions. Failure in doing so or in the event of disapproval of such decisions by the Market Committee, such decisions shall be null and void.

(3) The Executive Committee shall meet at least once in two months.

Powers and functions of Secretary of market committee of special market.

31P. The Executive Member of the Market Committee shall act as the Secretary of the Market Committee of the Special Market or Special Commodity Market. The Secretary shall -

- (i) exercise supervision and control over the officers and staff of the market committee in matters of executive administration concerning accounts and records and disposal of all questions relating to the services of the officers and staff of the Market Committee as per the prescribed procedure.
- (ii) appoint officers and staff of the Market Committee as per direction and procedure prescribed by the Market Committee,
- (iii) incur expenditure from the Market Committee fund for the sanctioned items of work,
- (iv) in cases of emergency, direct the execution or stoppage of any work,
- (v) sanction and launch prosecution for violation of the provisions of this Act or rules or bye-laws made thereunder,
- (vi) issue licences to the functionaries operating in the market,
- (vii) prepare annual budget of the Market Committee,
- (viii) arrange for summoning the meetings of the market committee and maintenance of records of the proceedings of such meetings,
- (ix) inspect from time to time the construction work undertaken by the Market Committee and send report of such inspection to the Chairman of the Market Committee,
- (x) report such acts of the Market Committee or members of the Market Committee including the Chairman and Vice-Chairman which are contrary to the provisions of this Act or rules or by-laws framed thereunder, to the Director,
- (xi) take such steps as deemed necessary for the effective discharge of the functions and decisions of the Market Committee.

Provisions relating to Contract Farming Agreement.

31Q. The Contract Farming Agreement shall be subject to the following provisions, namely:-

- (1) The contract farming agreement shall be in such form containing such particulars and terms and conditions, as may be prescribed.
- (2) The sponsor shall furnish the copy of the agreement to the Board or to such officer and in such manner as may be prescribed.
- (3) The agricultural produce covered under contract farming agreement when sold, shall be liable to such market fees as may be prescribed by the Board.

31R. (1) If any difficulty arises in giving effect to the provisions of this Chapter, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this chapter, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulty.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this chapter.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.”.

7. In the principal Act, after section 51, the following section shall be inserted, namely:-

Insertion of new section 51A in Guj. XX of 1964.

“51A. (1) At any time when so required, -

Power to stop vehicles and inspect store.

- (i) by any officer or employee of the State Government authorized by the Director in this behalf in any market area, or
- (ii) by any officer or employee of the market committee authorized by the market committee in this behalf in the market area concerned,

the driver or any other person in charge of the vehicle, vessel or other means of conveyance shall stop such vehicle, vessel or other means of conveyance, as the case may be, and keep it stationary, as long as may reasonably be necessary, and allow such person to examine the contents in the vehicle, vessel or other means of conveyance and inspect all records relating to agricultural produce carried, and give his name, address and name and address of the owner of the vehicle, vessel or other means of conveyance and name and address of the owner of the agricultural produce carried in such vehicle, vessel or other means of conveyance.

(2) Persons empowered under sub-section (1) shall have power to seize any agricultural produce brought into or taken out or proposed to be taken out of the market area in any vehicle, vessel or other means of conveyance, if such person has reason to believe that any fee or other amount due under this Act or the value payable to the seller in respect of such produce has not been paid.

(3) If any person authorized under sub-section (1) has reason to believe that any person is attempting to evade the payment of any market fee due from him under this Act or that any person has purchased or stored any agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws in force in the market area, he may enter or search any place of business, warehouse, office, establishment or godown where the person empowered under sub-section (1) has reason to believe that such person keeps or has for the time being kept stock of agricultural produce and may seize the stored agricultural produce and such seized agricultural produce may be confiscated in favour of the market committee in such manner as may be prescribed:

Provided that no agricultural produce shall be confiscated without giving a reasonable opportunity of being heard to the person concerned.

(4) The provisions of the Code of Criminal Procedure, 1973 shall apply to entry, search and seizure under sub-sections (1), (2) and (3) as they apply in relation to the entry, search and seizure of property by the police officer.".

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Amendment
of section 59
of Guj. XX
of
1964.

8. In the principal Act, in section 59, in sub-section (2),-

(1) after clause (iv), the following clauses shall be inserted, namely:-

"(iv-aa) (i) the manner of furnishing information regarding payment of market fee and manner of providing proof thereof and within a period to be prescribed under sub-section (2) of section 28;

(ii) the manner of maintaining account and furnishing of periodical returns under sub-section (2) of section 28;

(iii) the manner and form for permit for removal of agricultural produce and the proofs to be accompanied with the vehicle carrying agricultural produce under sub-section (2) of section 28;

(iv-bb) the manner and the fee for the grant or renewal of registration of functionaries and reasons for refusal of such application under section 31B;

(iv-cc) the form, manner and fee for making an application and for prescribing terms and conditions for grant or renewal of licence under section 31C;

(iv-dd) the rate of market fee and manner of levy and collection thereof; the proofs to be produced; the percentage of market fee and manner of making contribution to the Development Fund, under section 31D;

(iv-ee) the form, the manner, the fees and the authority to whom application shall be made, the terms and conditions for grant or renewal of licence, the manner of selling of agricultural produce and the quantity of commodity that may be purchased at a time and the rate of market charge under section 31E.

- (iv-ff) the other reasons for rejection of application for grant or renewal of application made under section 31C and section 31E, under section 31F;
- (iv-gg) the form, the manner and fees required to be paid, the terms and condition for grant of common licence under section 31G;
- (iv-hh) such other disqualifications for suspension or cancellation of licence or registration under section 31H;
- (iv-ii) the form and manner for preferring the appeal under section 31-I;
- (iv-jj) the manner of submitting audited annual accounts and statement of transaction under section 31L;
- (iv-kk) the procedure for supervision and control and procedure for appointment of the officers and staff of the market committee under section 31P;
- (iv-ll) the form, the particulars and the terms and conditions of, the manner in which and the officer to whom the contract farming agreement shall be furnished under section 31Q;

(2) after clause (iv-h), the following clause shall be inserted, namely :-

“(iv-ha) the manner in which the agricultural produce may be confiscated under section 51A.”

STATEMENT OF OBJECTS AND REASONS

The Gujarat Agricultural Produce Market Act, 1963 was enacted on the basis of rural market conditions prevailing at that time. The main objective of the Act was to prevent exploitation of farmers by unscrupulous traders. However, in the last 50 years, the rural market scenario has changed. In the wake of liberalization and globalization, markets are being opened through competition and application of modern technology. Similarly, access to export market has also opened up. While there has been a sea change in the retail markets, the same has not occurred in the agricultural producers' markets mainly because the existing the Gujarat Agricultural Produce Markets Act, 1963 excludes competition. As a result, agricultural producers' markets have functioned more in the nature of providing a procurement point rather than improving marketing services to the farmers. The absence of competition has resulted in denying a wider choice to farmers in the matter of where to sell, a decision that normally is based on better prices and better services. This Bill seeks to amend the Gujarat Agricultural Produce Markets Act, 1963 in order to avail farmers a wider choice and also to enable them to get better returns in the market.

The said Act also excludes and restricts direct access to farm produce by processors such as oil millers and food processors. This access normally promotes investment in value chain. The provisions in this regard for removing restrictions on free trade and commerce in agricultural produce by establishing private market etc. will be useful particularly in perishable commodities such as vegetables and fruits where refrigerated storage and transport may boost demand for farmers' produce. For want of cold supply chain, there is about 30% wastage in the perishable produce. The Bill seeks to amend the said Act to allow private markets in respect of trade of vegetables and fruits; export of agricultural produce and value addition to agricultural produce. The Bill also seeks to allow direct access to agricultural produce through contract farming by agro processors and exporters and value addition centres. Investment in value chain will boost demand for agricultural produce and yield higher returns to farmers through elimination of intermediates.

The Bill further seeks simplification in procedure where the trader wants to operate in more than one markets by proposing a single licence system. Further, the Bill also provides for summary procedure for settlement of disputes. The Bill provides for a single point levy only in respect of produce procured by processors, exporters and value addition centres. Majority of the States in India have already amended their respective Agricultural Produce Market Acts on above lines. This Bill seeks to propose above amendments in order to promote interests of farmers in Gujarat by removal of restrictions on free trade and commerce in the State through introduction of competitive markets of agricultural produce.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- (i) Clause (xii-a) proposed to be inserted by sub-clause (3) of this clause empowers the Director to declare such other markets;

(ii) Clause (xiii-a) proposed to be inserted by sub-clause (4) of this clause empowers the Director to specify by order in the *Official Gazette*, such other charges to be the market service charges;

(iii) Clause (xiv-a) in section 2 proposed to be inserted by sub-clause (5) of this clause empowers the State Government to declare such other persons to be a Market Functionaries;

(iv) Clause (xvi-a) in section 2 proposed to be inserted by sub-clause (6) of this clause empowers the State Government to appoint by order in the *Official Gazette*, an officer, an agency or the organization to be the prescribed authority;

(v) Clause (xvi-aa) in section 2 proposed to be inserted by sub-clause (8) of this clause empowers the State Government to notify a market as special market.

Clause 4.- (i) Clause (a) of sub-section (2) of section 28 proposed to be inserted by this Clause empowers the State Government to prescribe by rules, the information to be supplied by the buyer to the Director alongwith the proof and the time limit within which the said information shall be supplied;

(ii) Clause (d) of sub-section (2) of section 28 proposed to be inserted by this Clause empowers the market committees established under section 11 and the Director with respect to the markets established under Chapter IVA, to prescribe bye-laws for maintenance of accounts relating to sale and purchase, manner of submission and the periodical returns to be submitted to the Director;

(iii) Clause (e) of sub-section (2) of section 28 proposed to be inserted by this Clause empowers the State Government to prescribe by rules, the form of permit and the manner in which agricultural produce shall be removed out of the market area;

Clause 5.- Section 28A proposed to be inserted by this clause empowers the State Government, by notification in the *Official Gazette*, to grant exemption and such period for exemption from payment of market fees subject to such terms and conditions.

Clause 6.- In the Chapter IVA proposed to be inserted by this clause, -

(1) in section 31B, -

(i) Sub-section (1) empowers the State Government to prescribe by rules, the manner and the period for which the registration or its renewal shall be granted by the Managing Body of the private market;

(ii) Proviso to sub-section (1), empowers the State Government, by notification in the *Official Gazette*, to exempt such person or class of persons from requirement of registration and the period.

(iii) Sub-section (2) empowers the State Government to prescribe by rules, fees for registration of market functionaries;

(iv) Clause (v) of sub-section (3) empowers the State Government to prescribe by rules, other reasons for refusal of registration or its renewal;

(2) in section 31C, -

(i) Sub-section (1) empowers the State Government to prescribe by rules, the forms, the manner and the fees for making an application for establishing a private market or an e-market or to purchase agricultural produce directly from the agriculturist;

(ii) sub-section (2) empowers the State Government to prescribe by rules, the terms and conditions for grant or renewal of licence under sub-section (1) of section 31C;

(3) in section 31D, -

(i) sub-section (1) empowers the State Government to prescribe by rules, the rate and the manner of levy and collection of market fees;

(ii) sub-section (2) empowers the State Government to prescribe by rules, such proof that may be produced for showing that market fees has been paid;

(iii) sub-section (3) empowers the State Government to prescribe by rules, the percentage of fees and the manner of making contribution to the Development Fund;

(iv) sub-section (4) empowers the State Government to prescribe by rules, the rate and manner of payment of the market fees; and the percentage of fees of making contribution to the Development Fund

(4) in section 31E, -

(i) sub-section (1) empowers the State Government to prescribe by rules, the forms, the manner and the fees and the authority to whom application for establishment of farmer-consumer market;

(ii) sub-section (2) empowers the State Government to prescribe by rules, -

(a) the terms and conditions for grant or renewal of licence under sub-section (1) of section 31E and the manner of selling agricultural produce directly to the consumer;

(b) the quantity of commodity that may be purchased by a consumer at a time;

(iii) sub-section (4) empowers the State Government to prescribe by rules, the rates of charges for providing the services to the buyer by the proprietor of the farmer-consumer market;

(5) Clause (v) of section 31F empowers the State Government to prescribe by rules, the other reasons for rejection of application for grant or renewal of licence made under section 31C and section 31E;

(6) in section 31G, -

(i) sub-section (1) empowers the State Government to prescribe by rules the form, manner and fees required to be paid for obtaining common licence and also empowers to prescribe for purchase of minimum quantity of agricultural produce;

(ii) sub-section (2) empowers the State Government to prescribe by rules, the terms and conditions subject to which the Director shall grant the common licence;

(7) clause (e) of section 31H empowers the State Government to prescribe by rules, such other disqualifications for suspension or cancellation of licence or registration;

(8) sub-section (1) of section 31-I empowers the State Government to prescribe by rules, the form and the manner for preferring the appeal against the order of the Managing Body or the Director;

- (9) sub-section (1) of section 31J empowers the State Government to authorize an officer for redressal of disputes between the markets;
- (10) sub-section (1) of section 31K empowers the State Government to authorize an officer before whom the accounts and other documents and information relating to stocks, purchase, sale, etc. shall be furnished;
- (11) section 31L empowers the State Government to prescribe by rules, the manner of submitting audited annual accounts and statement of transactions to the Managing Directors;
- (12) in section 31M, -
 - (i) sub-section (1) empowers the State Government to declare, by notification in the *Official Gazette*, any market area as special market or special commodity market;
 - (ii) sub-section (2) empowers the State Government to establish, by notification in the *Official Gazette*, separate market committee for special market or special commodity market;
- (13) in section 31P, -
 - (i) clause (i) empowers the State Government to prescribe by rules, the procedure in which the Secretary shall supervise and control over the officers and staff of the market committee in matters of accounts and records and disposal of all questions relating to the services of the officers and staff;
 - (ii) clause (ii) empowers the Market Committee to prescribe direction and procedure subject to which officers and staff of the Market Committee shall be appointed;
- (14) in section 31Q, -
 - (i) sub-section (1) empowers the State Government to prescribe by rules, the form, the particulars and terms and conditions of contract farming agreement;
 - (ii) sub-section (2) empowers the State Government to prescribe by rules, the manner in which and the officer to whom the contract farming sponsorer shall furnish copy of contract farming agreement;
 - (iii) sub-section (3) empowers the Board to prescribe market fees leviable on agricultural produce covered under the contract farming agreement.

(15) sub-section (1) of section 31R empowers the State Government to remove difficulty, by order published in the *Official Gazette*.

Clause 7.- in section 51A, -

- (i) clause (i) of sub-section (1) empowers the Director to authorize any officer or employee of the State Government; and
- (ii) clause (ii) of sub-section (1) empowers the market committee to authorize any officer or employee of the market committee to --
stop vehicles and inspect records;
- (iii) sub-section (3) empowers the State Government to prescribe by rules, the manner in which agricultural produce may be confiscated in favour of the market committee.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st February, 2007.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 21st February, 2007.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

V-Ex-7-6

Government Central Press, Gandhinagar.

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 1st March, 2007 by shri Anil Patel, Minister for Industries is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT SPECIAL ECONOMIC ZONE (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 8 OF 2007.

A BILL

further to amend the Gujarat Special Economic Zone Act, 2004.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Special Economic Zone Short title. (Amendment) Act, 2007.

Guj.11 2. In the Gujarat Special Economic Zone Act, 2004 (hereinafter referred of 2004. to as "the principal Act") in section 2,-

Amendment of section 2 of Guj. 11 of 2004.

(1) for clauses (c) and (d), the following clauses shall be substituted, namely :-

(bb) "Central Act" means the Special Economic Zones Act, 28 of 2005;

(c) "Co-Developer" means a person who has been granted a letter of approval by the Central Government under sub-section (12) of section 3 of the Central Act and includes the existing Co-Developer;

(cc) "demarcated area" means an area exclusively for trading or warehousing purposes demarcated as such under section 6 of the Central Act;

(d) "Developer" means a person who has been granted a letter of approval by the Central Government under sub-section (10) of section 3 of the Central Act and includes the Co-Developer and the existing Developer;";

(2) after clause (i), the following clause shall be inserted, namely:-

"(ii) "peripheral area" means an area surrounding the Special Economic Zone as the State Government may, by notification in the *Official Gazette*, declare;";

(3) in clause (p), the word "Unit" shall be deleted.

Amendment of section 6 of Guj. 11 of 2004.

3. In the principal Act, in section 6, -

(1) in sub-section (2), in clause (b), after the words "development of Zone", the words "and for peripheral area" shall be inserted;

(2) in sub-section (3), in clauses (b) and (c), for the words "Unit Approval Committee", the words "Approval Committee" shall be substituted.

Amendment of Chapter IV of Guj. 11 of 2004.

4. In the principal Act, in Chapter IV, for the words "Unit Approval Committee" wherever they occur, the words "Approval Committee" shall be substituted.

Amendment of section 13 of Guj. 11 of 2004.

5. In the principal Act, in section 13, in clause (1), in sub-clause (c), the words "sale or" shall be deleted.

Amendment of section 15 of Guj. 11 of 2004.

6. In the principal Act, in section 15, -

(1) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) Any person generating electricity in the Zone, may supply electricity to the Gujarat Urja Vikas Nigam Ltd. or

Guj. 24
of 2003.

Distribution Licensees after obtaining approval from the Gujarat Electricity Regulatory Commission constituted under the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003, and upon the terms and conditions agreed to by the said person and the purchaser.",

(2) in sub-section (2), after the words "processing area of the Zone", the words "or in the demarcated area" shall be inserted.

7. In the principal Act, in section 21, in sub-section (1),--

Amendment of
section 21 of
Guj. 11 of
2004.

(1) (a) for the words "All sales and transactions within the processing area of the Zone", the words, figures, letter and brackets "Subject to the provisions of sub-section (1A), all sales and transactions within the processing area of the Zone or in the demarcated area or between the units in the processing area and the demarcated area" shall be substituted;

(b) in clause (a), for the word "Zone", the words "processing area of the Zone or in the demarcated area" shall be substituted;

(c) in clause (b), after the words "processing area of the Zone", the words "or in the demarcated area" shall be inserted;

(d) in clause (c), for the words "Sales Tax, Purchase Tax, Motor Spirit Tax", the words "Tax on sales or purchases of goods other than the goods specified in Schedule III of the Gujarat Value Added Tax Act, 2003" shall be substituted;

(2) after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) The benefits of exemptions under sub-section (1) shall be available to the Unit or a person on the sales and transactions of goods which have been actually and physically involved in the movement of goods.";

(3) in sub-section (2),

(a) for the words "Zone Units", the words "the Units in the processing area of the Zone or in the demarcated area" shall be substituted;

(b) for the words "Sales Tax", the words "tax on sales or purchases of goods other than the goods specified in Schedule III of the Gujarat Value Added Tax Act, 2003" shall be substituted.

After the enactment of the Gujarat Special Economic Zone Act, 2004, the Parliament has enacted the Special Economic Zones Act, 2005. In order to bring the provisions of the State Act in consonance with the provisions of the Central Act, it is considered necessary to amend the definitions of the 'Developer' and 'Co-Developer'. Similarly, the Central Act provides for 'Approval Committee', whereas the State Act provides for the 'Unit Approval Committee'. Therefore, the nomenclature of the 'Unit Approval Committee' is proposed to be changed to 'Approval Committee'. Amendments in sections 2, 6 and Chapter IV of the State Act provide accordingly.

Under the provisions of the Central Act, the fiscal benefits are available to the processing areas as well as non-processing areas of the Zone. Whereas, the State Act provides for such fiscal benefits limited to the processing areas of the Zone only. It is, therefore, considered necessary to extend the fiscal benefits also to the Units in the areas which are exclusively meant for trading or warehousing purposes in the Zone. Accordingly, the definition of 'demarcated area' has been inserted in section 2 of the Act and other consequential amendments have been proposed in sections 15 and 21.

Section 6 of the State Act provides for the powers and functions of the Authority for the purpose of planned development of the Zone. The Authority has been empowered to prepare guidelines with regard to land usage, environmental provisions, etc. of the Zone. With a view to regulate the surrounding area of the Special Economic Zone, it is proposed to empower the said Authority to prepare guidelines for the development of the surrounding area of the Zone. The surrounding area of the Zone has been defined as the 'peripheral area' which will be declared by the State Government by notification in the *Official Gazette*. Amendments in sections 2 and 6 provide accordingly.

Under the provisions of section 13 of the Act, the Development Committee of Zone has been empowered to allocate and transfer either, by way of sale or lease or otherwise, the plots of land for industrial and other purposes. It is considered necessary to limit the powers of the Development Committee for allocation and transfer of land only for the purpose of lease or otherwise. Amendment in clause (c) of sub-section (1) of section 13 provides accordingly.

Section 21 of the Act provides for the fiscal benefits within the processing area of the Zone. Since the Gujarat Sales Tax Act, 1969 and the Bombay Sales of Motor Spirit Taxation Act, 1958 has been repealed by the Gujarat Value Added Tax Act, 2003, section 21 has been proposed to be amended suitably, so as to grant benefits of exemption of sales tax and purchase tax other than the tax on sales or purchase of goods specified in Schedule III of the Gujarat Value Added Tax Act, 2003. In order to prevent the misuse of the tax benefits, it is also considered necessary to provide that the benefits of exemption would be available only on the sales or transactions of goods of the trading and warehousing Units which have been actually and

physically involved in the movement of goods. Proposed sub-section (1A) provides accordingly.

This Bill seeks to amend the Gujarat Special Economic Zone Act, 2004 to achieve the aforesaid objects.

ANIL PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the delegation of legislative powers in the following respect, namely :-

Clause 2.- Clause (ii) proposed to be inserted in section 2 by this clause empowers the State Government to declare, by notification in the *Official Gazette*, the surrounding area of the Special Economic Zone to be the peripheral area.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 22nd February, 2007.

ANIL PATEL.

Gandhinagar,
Dated the 1st March, 2007.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

(C)



Satyameva Jayate

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 2007.

GUJARAT BILL NO. 9 OF 2007.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2007.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2007. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of six thousand one hundred thirty-two crores, fifty-two lacs, seventy-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2007, in respect of the services and purposes specified in column 2 of the Schedule. Issue of
Rs.
61,32,52,72,000
from and out of
the Consolidated
Fund of the State
of Gujarat for the
financial year
2006-2007.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Vote / Approp- riation	Services and Purposes	Sums not exceeding			Total	
		Voted	Charged on the Consolidated Fund	Rs.		
		3	Rs.			
1	2	Rs.	Rs.	Rs.	Rs.	
1	Agriculture and Co-operation Department	Revenue	34,15,000		34,15,000	
2	Agriculture	Revenue	46,29,50,000	59,000	46,30,09,000	
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	37,96,17,000		37,96,17,000	
4	Animal Husbandry and Dairy Development	Revenue	5,16,01,000		5,16,01,000	
5	Co-operation	Revenue	6,65,000		6,65,000	
7	Other Expenditure pertaining to Agriculture and Cooperation Department	Revenue		19,000	19,000	
8	Education Department	Revenue	21,50,000		21,50,000	
9	Education	Revenue	3,10,54,21,000	1,60,68,000	3,12,14,89,000	
10	Other Expenditure pertaining to Education Department	Revenue	35,05,000		35,05,000	
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	25,86,000		25,86,000	
13	Energy Projects	Revenue	1,61,07,39,000		1,61,07,39,000	
		Capital	7,40,20,61,000		7,40,20,61,000	
15	Finance Department	Revenue	50,000		50,000	
16	Tax Collection Charges (Finance Department)	Revenue	3,21,79,000		3,21,79,000	
17	Treasury and Accounts Administration	Revenue	2,98,66,000		2,98,66,000	
18	Pension and other Retirement Benefits.	Revenue	1,80,19,50,000	10,00,000	1,80,29,50,000	
19	Other Expenditure pertaining to Finance Department	Revenue	2,000		2,000	
		Capital	1,000		1,000	
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue		1,000	1,000	
		Capital		1,000	1,000	
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	59,60,000		59,60,000	
22	Civil Supplies	Revenue	5,48,95,000		5,48,95,000	
26	Forest	Revenue	6,29,40,000	7,87,000	6,37,27,000	
		Capital	69,45,90,000		69,45,90,000	

No. of Vote / Appropriation	Services and Purposes	Sums not exceeding			Total
		Voted	Charged on the Consolidated Fund	3	
1	2	Rs.	Rs.	Rs.	
31	Election	Revenue	7,91,66,000		7,91,66,000
32	Public Service Commission	Revenue	39,30,000	74,00,000	1,13,30,000
33	General Administration Department	Revenue	7,81,96,000		7,81,96,000
34	Economic Advice and Statistics	Revenue	16,20,000		16,20,000
35	Other Expenditure pertaining to General Administration Department	Revenue	2,59,20,000		2,59,20,000
38	Health and Family Welfare Department	Revenue	12,22,000		12,22,000
39	Medical and Public Health	Revenue	32,87,20,000	14,02,000	33,01,22,000
		Capital	13,15,47,000		13,15,47,000
42	Home Department	Revenue	67,17,000		67,17,000
43	Police	Revenue	47,63,02,000	1,55,000	47,64,57,000
44	Jails	Revenue	1,12,19,000		1,12,19,000
45	State Excise	Revenue	42,55,000		42,55,000
46	Other Expenditure pertaining to Home Department	Revenue	2,000		2,000
		Capital	16,68,15,000		16,68,15,000
48	Stationery and Printing	Revenue	52,76,000		52,76,000
49	Industries	Revenue	1,28,47,000		1,28,47,000
		Capital	40,00,000	5,90,000	45,90,000
50	Mines and Minerals	Revenue	1,000		1,000
51	Tourism	Revenue	1,82,23,000		1,82,23,000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue	11,07,00,000		11,07,00,000
54	Information and Publicity	Revenue	3,11,34,000		3,11,34,000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	21,25,000		21,25,000
56	Labour and Employment Department	Revenue	12,40,000		12,40,000
57	Labour and Employment	Revenue	1,67,16,000		1,67,16,000
60	Administration of Justice	Revenue	11,50,05,000	6,78,97,000	18,29,02,000
61	Other Expenditure pertaining to Legal Department	Revenue	1,75,17,000		1,75,17,000

No. of Vote / Appropriation	Services and Purposes	Sums not exceeding			Total
		Voted	Charged on the Consolidated Fund	3	
		Rs.	Rs.	Rs.	
1	2	3	3	3	3
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	1,13,35,000		1,13,35,000
65	Narmada Development Scheme	Capital	5,00,00,00,000		5,00,00,00,000
66	Irrigation and Soil Conservation	Revenue	1,25,59,82,000	1,02,02,000	1,26,61,84,000
		Capital	6,25,09,45,000	2,06,16,000	6,27,15,61,000
67	Water Supply	Revenue	97,84,70,000		97,84,70,000
		Capital	1,68,45,64,000		1,68,45,64,000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	15,00,000	5,39,99,000	5,54,99,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	34,58,000		34,58,000
70	Community Development	Revenue	85,82,46,000		85,82,46,000
71	Rural Housing and Rural Development	Revenue	4,75,57,000		4,75,57,000
72	Compensation and Assignments	Revenue	54,96,80,000		54,96,80,000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	6,50,00,000		6,50,00,000
74	Transport	Revenue	1,000		1,000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	18,74,000		18,74,000
		Capital	15,47,00,000		15,47,00,000
76	Revenue Department	Revenue	15,82,000		15,82,000
77	Tax Collection Charges (Revenue Department)	Revenue	5,21,10,000	32,50,000	5,53,60,000
78	District Administration	Revenue	4,89,70,000		4,89,70,000
79	Relief on account of Natural Calamities	Revenue	14,61,75,01,000	1,50,000	14,61,76,51,000
80	Dangs District	Revenue	1,22,02,000		1,22,02,000
81	Compensation and Assignments	Revenue		10,06,000	10,06,000
84	Non-Residential Buildings	Revenue		15,31,000	15,31,000
		Capital	11,54,000	6,63,000	18,17,000
85	Residential Buildings	Revenue		1,19,000	1,19,000
		Capital	1,50,00,000		1,50,00,000
86	Roads and Bridges	Revenue	2,73,79,28,000	44,36,000	2,74,23,64,000
		Capital		3,26,78,000	3,26,78,000
87	Gujarat Capital Construction Scheme	Capital		1,56,89,000	1,56,89,000

No. of Vote / Appropriation	Services and Purposes	Sums not exceeding			Total Rs.	
		Voted	Charged on the Consolidated Fund	Rs.		
		3	Rs.			
1	2	Rs.	Rs.	Rs.	Rs.	
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	52,45,000	34,93,96,000	35,46,41,000	
89	Science and Technology Department	Revenue	7,06,000		7,06,000	
90	Other Expenditure pertaining to Science and Technology Department	Revenue	5,06,000		5,06,000	
		Capital	50,00,000		50,00,000	
91	Social Justice and Empowerment Department	Revenue	8,98,000		8,98,000	
92	Social Security and Welfare	Revenue	18,14,86,000		18,14,86,000	
93	Welfare of Scheduled Tribes	Revenue	1,000	1,31,000	1,32,000	
95	Special Component Plan for Scheduled Castes	Revenue	1,03,16,000		1,03,16,000	
96	Tribal Area Sub-Plan	Revenue	1,12,35,74,000	4,06,77,000	1,16,42,51,000	
		Capital	1,10,65,49,000	1,32,11,000	1,11,97,60,000	
97	Sports, Youth and Cultural Activities Department	Revenue	5,10,000		5,10,000	
98	Youth Services and Cultural Activities	Revenue	1,01,83,000		1,01,83,000	
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	7,00,000		7,00,000	
100	Urban Development and Urban Housing Department	Revenue	8,65,000		8,65,000	
101	Urban Housing	Revenue	51,000		51,000	
102	Urban Development	Revenue	6,02,71,52,000		6,02,71,52,000	
		Capital	11,62,00,000		11,62,00,000	
103	Compensation, Assignment and Tax Collection Charges	Revenue	20,48,00,000		20,48,00,000	
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	56,000		56,000	
105	Women and Child Development Department	Revenue	9,45,000		9,45,000	
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	17,90,78,000		17,90,78,000	
		Capital	1,000		1,000	
Total:		Revenue	37,94,83,12,000	55,96,85,000	38,50,79,97,000	
Grand Total :		Capital	22,73,38,27,000	8,34,48,000	22,81,72,75,000	
Grand Total :			60,68,21,39,000	64,31,33,000	61,32,52,72,000	

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty first day of March, 2007.

The amounts are shown below :-

Rs.

(a)	Revenue Expenditure	38,50,79,97,000
(b)	Capital Expenditure	22,81,72,75,000
	Total :-	61,32,52,72,000

Gandhinagar,
Dated the 6th March, 2007.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 6th March, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative & Parliamentary Affairs Department.

(C)



The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 8th March, 2007 by Shri Siddharth Parmar/ M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 10 OF 2007.**THE GUJARAT CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2007.***A BILL**Further to amend the Gujarat Co-operative Societies Act, 1961.*

It is hereby enacted in the Fifty-eighth year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2007. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint.
2. In the Gujarat Co-operative Societies Act, 1961, in section 74 B :-
 - (1) in the marginal note, for the words "Schedule Castes and Tribes and small and marginal farmers" the words "Scheduled Castes, Tribes, small and marginal farmers and woman" shall be substituted.
 - (2) in sub-section (1)-
 - (i) for the words "two seats shall be reserved" the words "three seats shall be reserved" shall be substituted;
 - (ii) after clause (b), the following new clause shall be inserted, namely :-

"(c) one for the woman"

Guj.X of 1962.

Amendment of
Section 74(B) of
Guj.X of 1962.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Co-operative Societies Act, 1961 has been enacted for the purpose of providing for the orderly development of the Co-operative movement in the State. Under Section 74-B of this Act, a provision has been made for the reservation of two seats on committees of certain Societies for Scheduled Castes, Scheduled Tribes and from persons who are small farmers and marginal farmers. But there is no provision for the reservation for the women on such committees. Since it is the adopted policy of the Government (both State & Central) to encourage women to take part in the various developmental activities, it is considered necessary to reserve one seat for the women on the Committees of the Co-operative Societies.

Hence this Bill.

Gandhinagar

Dated the 3rd January, 2007.

SIDDHARTH PARMAR

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves following proposal for delegation of Legislative Power.

Clause 1 : Under sub-clause (2) of this clause power has been given to the State Government to bring the Act into force on such date as the State Government may, by notification in the Official Gazette, appoint.

The above mentioned delegation of legislative power is of a normal character.

Gandhinagar

Dated the 3rd January, 2007.

SIDDHARTH PARMAR

M.L.A.

Gandhinagar,

Dated the 8th March, 2007.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.

(C)



Satyameva Jayate

The Gujarat Government Gazette

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 8th March, 2007 by Dr. Chandrikaben Chudasama M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:

GUJARAT BILL NO. 11 OF 2007.

THE GUJARAT PROHIBITION OF RAGGING BILL, 2007.

A BILL

to prohibit ragging in educational institutions in the State of Gujarat and for matters connected therewith..

WHEREAS, it is expedient to enact a special law to prohibit ragging in educational institutions in the State of Gujarat;

It is hereby enacted in the Fifty-eighth Year of Republic of India as follows :-

1. (1) This Act may be called the Gujarat Prohibition of Ragging Act, 2007.

Short title,
extent and
Commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "educational institution" means and includes a College, or other Institution by whatever name called, carrying on the activity or imparting education therein (either exclusively or among other activities); and includes an orphanage or a boarding home or hosted or a tutorial institution or any other premises attached thereto;
- (b) "head of the educational institution" means the Vice-Chancellor of the University, Dean of the Medical faculty, Director of the Institution, or the Principal, Headmaster or the person responsible for the management of the institution;
- (c) "ragging" means display of disorderly conduct, doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes-
 - (i) teasing, abusing, threatening or playing practical jokes on, or causing hurt to, such student; or
 - (ii) asking a student to do any act or perform something which such student will not, in the ordinary course, willingly do.

Prohibition of Ragging. 3. Ragging within or outside any educational institution is an offence punishable under this Act.

Penalty for Ragging.

4. Any person who directly or indirectly commits, participates in, abets or propagates ragging within or outside any educational institution shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to ten thousand rupees.

Dismissal of student.

5. Person who is convicted under Section 4, is a student, he shall be dismissed from the educational institution and such student shall not be admitted in any other educational institution for a period of five years from the date of order of such dismissal.

6. (1) Whenever any student or, as the case may be, the parent or guardian, or a teacher of an educational institution complaints, in writing of ragging to the head of the educational institution, the head of the educational institution shall, without prejudice to the foregoing provisions, within seven days of the receipt of the complaint inquire into the matter mentioned in the complaint and if, *prima-facie*, it is found true, suspend the student who is accused of the offence, and shall, immediately forward the complaint to the Police-Station having jurisdiction over the area in which the educational institution is situated, for further action.

(2) Where, on enquiry by the head of the educational institution, It is proved that there is no substance, *prima-facie*, in the complaint received under sub-section (1), he shall intimate the fact, in writing, to the complainant.

(3) The decision of the head of the educational institution that the student has indulged in ragging under sub-section (1), shall be final.

7. If the head of the educational institution fails or neglects to take action in the matter specified in section 6 when a complaint of ragging is made, such person shall be deemed to have abetted the offence of ragging and shall, on conviction, be published as per the provisions of section 4.

8. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Rules made under this Section shall be laid before the State Legislature for a period of thirty days as soon as possible after they are made and shall be subject to such modifications or recission as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modification or recission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA

Dated the 12th February, 2007

M. L. A.

STATEMENT OF OBJECTS AND REASONS

In recent year there has been a significant increase in the complaints of ragging in educational institutions. Ragging is a stigma on the educational institutions and it should be nipped in bud. Ragging causes physical or psychological harm or raise fear or shame to a student in any educational institution. It is, therefore expedient in the educational institutions interest to device Legislative measure.

Hence this Bill.

Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA

Dated the 12th February, 2007

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub clause (3) of clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub clause (1) of clause (8) empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of Legislative powers as aforesaid is essential and of normal character.

Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA

Dated the 12th February, 2007.

M. L. A.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.

Gandhinagar,
Dated the 8th March, 2007.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 8th March, 2007 by Dr. Chandrikaben Chudasama M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 12 OF 2007.

THE GUJARAT ONE JOB IN EACH LOWER INCOME GROUP

FAMILY BILL, 2007.

A BILL

to provide for a job at least to one person in each lower income group

Family in the State of Gujarat

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat one Job in Each Lower Income Group Family Act, 2007.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "adult person" means a person who has attained the age of eighteen years;

(b) "family" includes wife, son, daughter, father, mother, brother or sister of a person and residing with him;

(c) "lower income group family" means a family whose yearly income per member of the family is less than Rs. 10,000;

(d) "prescribed" means prescribed by rules made under this Act.

(e) "scheme" means a scheme prepared to give at least one job in each lower income group family.

**Report on
unemploy-
ment
condition
Scheme.**

3. The State Government shall prepare and publish a report on unemployment condition and yearly income in each family in the State of Gujarat within Six months from the date of coming into force of this Act.

4. (1) On preparation and publications of the report under section 3, the State Government shall prepare and publish within three months a scheme for providing a job carrying a salary of Rs. 1500 per month at least to one adult person in each lower income group family.

(2) The scheme shall be prepared and published in such manner as may be prescribed.

**One job in
each
family.**

5. (1) After publication of the scheme under section 4, the State Government shall take steps to provide jobs as per the scheme.

(2) If the State Government is unable to provide a job carrying a salary of Rs.1500 per month to one adult person in a lower income group family, within one year from the date of operation of this Act, an un-employment allowance at the minimum rate of Rs. 50 per day shall be paid to such family until a job is provided to an adult person of such family.

**Imple-
mentation
of Act and
Scheme.**

6. (1) The State Government shall appoint implementing agencies for implementation of the Act and the scheme in every district in such manner as may be prescribed.

(2) The State Government shall appoint such officers and servants as it may deem necessary for carrying out the purposes of this Act.

**Power to
make
rules.**

7. (1) The State Government may, by notification, in the *Official Gazette* make rules to carry out all or any of the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

Unemployment is increasing day by day amongst both the educated and un-educated people. Thousands of young brilliant persons are wasting their time without any work. Similarly landless agricultural labourers and halpatis are without work for a considerable period in a year. About 50 % of our population is living below poverty line, as a result of which the economic, social, educational and cultural growth is hampered.

To avoid this situation it is very necessary that at least one adult person from each lower income group family, whose yearly income per member of the family is less than Rs. 10,000/- is given job and in the alternative the unemployment allowance.

Hence this Bill.

Dated 12th February, 2007.
Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA,
M. L. A.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for providing one job in each lower income group family and in the alternative unemployment allowance. *Clause 6* provides for appointment of officers and servants for carrying out the purposes of the Act.

These provisions if enacted is likely to involve expenditure from the Consolidated Fund of the State. As the exact involvement of the expenditure to be incurred by the State Government depends also upon the survey to be carried out by Government under Section 3, it is difficult to give any estimate of recurring or non-recurring expenditure at present.

Dated 12th February, 2007.
Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA,
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-Clause (2) of clause 4 empowers the State Government to prescribe the manner in which the scheme shall be prepared and published.

Sub-Clause (1) of clause 6 empowers the State Government to prescribe the manner in which the implementing agencies shall be appointed.

Sub-Clause (2) of clause 6 empowers the State Government to appoint Officers and Servants for carrying out the purposes of the Act.

Sub-Clause (1) of clause 7 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Dated 12th February, 2007.

Gandhinagar.

Dr. CHANDRIKABEN CHUDASAMA,

M. L. A.

Gandhinagar,

Dated the 8th March, 2007.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.

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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 8th March, 2007 by

Dr. Chandrikaben Chudasama, M.L.A. is published under rule 127-A of the
Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 13 OF 2007.

THE GUJARAT STATE COMMISSION FOR SAFAI KARMACHARIS BILL, 2007.

A BILL

to constitute a State Level Commission for Safai Karmacharis and to provide for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to enact a special law for upliftment, liberation, rehabilitation and monitoring of various welfare schemes in the State of Gujarat by establishing the State level Commission for Safai Karmacharis; It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat State Commission for Safai Karmacharis Act, 2007. Short title,
extent,
comment-
cement and
duration.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date, as the state Government may, by notification in the *Official Gazette* appoint.

(4) The term of the Commission shall be for a period of five years :

Provided that the State Government may, reduce the said term or extend the term of the Commission as deemed proper.

Definitions.

2. (1) In this Act, unless the context otherwise requires-

(a) "Chairperson" means the Chairperson of the Commission ;

(b) "Commission" means the Gujarat State Commission for Safai Karmacharis constituted under section 3 ;

(c) "Member" means a member of the Commission ;

(d) "prescribed" means prescribed by rules made under this Act ;

(e) " Safai Karmachari" means a person engaged in, or employed for, manually carrying human excreta or any sanitation work ;

(f) "Vice-Chairman" means Vice-Chairman of the Commission.

CHAPTER II

COMMISSION FOR SAFAI KARMACHARIS

Constitution of Commission and its headquarters.

3. (1) The State Government may, by notification in the *Official Gazette*, constitute a body to be known as the Gujarat State Commission for Safai Karmacharis to exercise the powers conferred and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of,-

(a) the Chairperson ;

(b) the Vice-Chairperson ; and

(c) five Members,

to be nominated, by the State Government from amongst the persons engaged in social economic, educational development and welfare of Safai Karmacharis :

Provided that at least one of the Members shall be a woman.

(3) The headquarters of the Commission shall be a place as may be declared by the State Government by notification in the *Official Gazette*.

4. (1) The Chairperson, the Vice-Chairperson and every Member shall hold office for such a period, not exceeding three years, as may be specified by the State Government in this behalf.

(2) The Chairperson, Vice-Chairperson or a Member may, by notice in writing addressed to State Government, resign from the office of the Chairperson, the Vice-Chairperson or as the case may be, of a Member at any time.

(3) The State Government shall remove the person from the office of the Chairperson, the Vice-Chairperson or a Member if that person,-

(a) becomes an un-discharged insolvent ;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude ;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting or discharging his duties ;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission ; or

Term of office and conditions of service of Chairperson, Vice-Chairperson and Members.

(f) in the opinion of the State Government, has so abused the position of the Chairperson, the Vice-Chairperson or a Member, as to render that person's continuance in such office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) Notwithstanding anything contained, in sub-section (1) and (3), all the office bearers of the Commission shall hold office during the pleasure of the state Government and may be removed at any time before the expiry of their term of office.

(5) A vacancy caused under sub-sections (2), (3) or (4) or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held the office if such vacancy had not arisen.

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of 1956.

(6) The Chairperson of the Commission shall enjoy the status of the Minister of State of the Government of Gujarat and he shall be entitled to salary and allowances payable to, and all other allowances available to the Minister of State under the Gujarat Ministers' Salaries and Allowances Act.

(7) The salaries and allowances payable to, and the terms and conditions of service of the Vice-Chairpersons and the Members shall be such as may be prescribed.

5. (1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act. Officers and other employees of Commission.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission. Vacancy, etc. not to invalidate proceedings of Commission.

7. (1) The Commission shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit. Procedure to be regulated by Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other officer of the Commission duly authorised by the Chairperson in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION.

8. (1) The Commission shall perform all or any of the following functions, namely:- Functions and powers of Commission.

(a) recommend to the State Government specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai Karmacharis under a time bound action plan;

(b) study and evaluate the implementation of the programmes and schemes relating to the social and economic rehabilitation of Safai Karmacharis and make recommendation to the State Government for better co-ordination and implementation such programmes;

(c) Visit various establishment of the State Government, and Semi-Government institutions and also aided institutions and to obtain information, or to advise or make suggestions to the said institution;

(d) investigate specific grievances and take suo-moto notice of matters relating to non-implementation of:-

- (i) programmes or schemes in respect of any group of Safai Karmacharis;
- (ii) decisions, guidelines or instruction aimed at mitigating the hardship of Safai Karmacharis;
- (iii) measures for the social and economic upliftment of Safai Karmacharis;
- (iv) the provisions of any law in its application to Safai Karmacharis, and take up such matters with the concerned authorities or with the State Government;

(e) make periodical reports to the State Government of any matter concerning Safai Karmacharis, taking into account any difficulties or disabilities being encountered by Safai Karmacharis;

(f) deal with any other matter which may be referred to it by the State Government.

(2) In the discharge of its functions under sub-section (1), the Commission shall have power to call for information with respect to any matter specified in that sub-section from State Government or local or other Semi-Government authority.

CHAPTER IV FINANCE, ACCOUNTS AND AUDIT REPORT

Grants by State Government.

9. (1) The State Government shall, after due appropriation made by the state Legislature by law, in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money as the State Government may think fit for being utilised for the purpose of this Act.

(2) the Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and audit.

10. (1) The Commission shall maintain proper accounts and other relevant record and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant General of the State of Gujarat.

(2) The annual accounts of the Commission shall be audited by the Accountant General of the State at such intervals as may be specified by him any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.

(3) The Accountant General and any person appointed by him connection with the audit of the accounts of the Commission under this Act, shall have the same rights and privileges and the authority, in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, account, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant General or any other person duly appointed or authorised by him in this behalf, together with the audit report, thereon shall be forwarded annually to the State Government, by the Commission.

CHAPTER V

Miscellaneous

45 of 1860. 11. The Chairperson, the Vice-Chairperson, the members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Chairperson, Vice-Chairperson, Member and staff of Commission to be public Servants.

12. The State Government shall consult the Commission on all major policy matters affecting Safai Karmacharis. State Government to consult Commission.

13. The Commission shall prepare its annual report, in such form and at such time, for each financial year as may be prescribed, giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government. Annual Report.

14. (1) The State Government shall cause the annual report to be laid before the State Legislature explaining the action taken or proposed to be taken on the recommendations contained therein so far as they relate to the State Government and the reasons for non-acceptance, if any, of such recommendations. Annual Report to be laid before Legislative Assembly.

(2) Where the said report or any part thereof relates to any matter which Central Government is concerned, a copy of such report shall be forwarded to the Government of India for further necessary action.

15. The Commission may, by general or special order, delegate to the Chairperson, the Vice-Chairperson or any Member or to any Officer of the Commission, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit. Delegation of powers.

16. No suit, prosecution or other legal proceedings shall lie against the Chairperson, the Vice-Chairperson, the Members or any officer or other employees of the Commission and the State Government, for anything which is good faith done or intended to be under this Act. Protection of action taken in good faith.

17 (1) The State Government may, by notification in the *Official Gazette*, make rule for carrying out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the forgoing powers, such rules may be provided for all or any of the following matters, namely : -

(a) salaries and allowances payable to, and the other terms and conditions of service of the Vice-Chairperson, and the Members under sub-section (7) of section 4 and officers and other employees of the Commission under sub-section (2) of section 5;

(b) the form in which the annual statement of accounts shall be prepared in consultation with the Accountant General of the State of Maharashtra under section 10;

(c) the form in, and time at, which the annual report shall be prepared and submitted under section 13;

(d) any other matter which is required to be, or may be prescribed for the purposes of this Act;

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session

immediately following, both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

STATEMENT OF OBJECTS AND REASONS

The scavengers and sweepers constitute the most vulnerable section of the society. The practice of carrying night-soil on head is not only inhuman and unhygienic for the persons involved in this practice but is responsible for spreading insanitation in the area and results in the practice of untouchability, a social stigma, which has gripped our nation for the last so many decades.

2. Various schemes have, from time to time, been introduced by the Central Government as well as the State Government to improve the conditions of Safai Karmacharis. However, these schemes have not been successful in improving the conditions of Safai Karmacharis to the desirable level. Therefore, the Government of India had introduced the National Scheme for Liberation and rehabilitation of the Scavengers and their dependents in the year 1992-93 and has also established a National Commission for Safai Karmacharis by enacting a special Act called the National Commission for Safai Karmacharis Act, 1993. To supplement and actively support the efforts of the Central Government to achieve this just and human cause it is necessary to constitute a separate State Level Commission for the Safai Karmacharis, by enacting a special law in the State, on the lines of the National Commission for Safai Karmacharis constituted under the said Central Act. The State Commission for Safai Karmacharis aims at monitoring, co-ordinating and implementing the various welfare schemes introduced by the State Government for the liberation, upliftment and rehabilitation of the Safai Karmacharis in the State.

3. The Bill seeks to achieve the above objectives.

Gandhinagar,

Dated the 9th February, 2007.

Dr. CHANDRIKABEN CHUDASAMA

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of the following legislative powers, namely :-

(1) *Clause 1 (3).* - Under this clause power is taken to the State Government to bring the Act into force, by notification in the *Official Gazette*, on such date as the State Government may appoint.

(2) *Clause 3 (1).* - Under this clause power is taken to the State Government to constitute a body to be known as the Gujarat State Commission for Safai Karmacharis by notification in the *Official Gazette*.

(3) *Clause 3 (3).* - Under this clause power is taken to the State Government to declare the head quarter of the Commission by notification in the *Official Gazette*.

(4) *Clause 17.* - This clause empowers the State Government to make rules generally to carry out the provisions of the Act and particularly for matters specified in sub-clause (2) thereof.

2. The above proposals for delegation of legislative power are of normal character.

Gandhinagar,

Dated the 9th February, 2007.

Dr. CHANDRIKABEN CHUDASAMA

M.L.A.

FINANCIAL MEMORANDUM

The provisions of the Bill involves the following expenditure from the Consolidated Fund of the State :-

(a) The Bill provides for the establishment of the Commission for Safai Karmachari in the State creation of certain posts, salaries and allowances payable to the Chairperson, Vice-Chairperson and Members of the Commission and the salaries and allowances payable to the officers and employees for which the State Government will have to bear an annual recurring expenditure of Rs. 13.66 lakhs. Besides, the items like furniture, etc., for the office of the Commission, an amount of Rs. 7.83 lakhs will be needed as non-recurring expenditure.

(b) For the establishment of the Commission, the total annual expenditure for the first year will be Rs. 21.50 lakhs. Thereafter, every year the Government will have to bear an amount of Rs. 13.66 lakhs as recurring expenditure.

Gandhinagar,
Dated the 9th February, 2007.

Dr. CHANDRIKABEN CHUDASAMA
M.L.A.

Gandhinagar,
Dated the 8th March, 2007.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.



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PART.- V

Bills introduced in the Gujarat Legislative Assembly.

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GUJARAT BILL NO. 14 OF 2007.

THE GUJARAT MAINTENANCE OF PARENTS AND DEPENDANTS BILL, 2007.

A BILL

to provide for the maintenance of parents, wives and children and for matters connected therewith.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Maintenance of Parents and Dependents Act, 2007. Short title and Comment.
2. (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint. Definitions.
3. In this Act, unless the context otherwise requires,-
 - (a) "appellate authority" means an officer, not below the rank of a District Collector, authorised by the State Government to hear the appeals under section 16 of this Act;
 - (b) "applicant" includes a person in whose favour a maintenance order has been made under the provisions of this Act;
 - (c) "approved person or organisation" means a person or an organisation that has been approved under section 20 by the State Government in writing for the purposes of this Act;
 - (d) "child" includes an illegitimate, adopted and step child;
 - (e) "dependant" includes-
 - (i) Parents and grand parents, so long as they are unable to maintain themselves or unable to obtain maintenance in the case of grand parents from their sons and daughters;
 - (ii) wife, so long as she does not remarry

- (iii) son or the son of pre-deceased son, so long as he is minor; provided and to the extent that he is unable to obtain maintenance, in the case of grand-son from his father's or mother's estate;
- (iv) unmarried daughter or unmarried daughter of the pre-deceased son, so long as she remains unmarried; provided and to the extent that she is unable to obtain maintenance in case of a grand daughter from her father's and mother's estate;
- (v) widowed daughter; provided that and to the extent that she is unable to obtain maintenance-
 - (a) from the estate of her husband;
 - (b) from her son or daughter, if any, or his or her estate; or
 - (c) from her father-in-law or her grand father or the estate of either of them;
- (vi) any widow of the son or of the son of the pre-deceased son, so long as she does not remarry; provided and to the extent that she is unable to obtain maintenance from the estate of her husband or from her son or daughter, if any, or his or her estate; or in the case of a grandson's widow, also from her father-in-law's estate;
- (vii) minor illegitimate son, so long as he remains a minor;
- (viii) illegitimate daughter, so long as she remains unmarried;
- (f) "District Collector" means the Collector of the District appointed by the Government of Gujarat;
- (g) "Maintenance Officer" means the maintenance officer for the maintenance of Parents and Dependents appointed under section 12;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "property" means property of any kind, whether movable or immovable, tangible; or intangible; and includes any rights or interest in such property;
- (j) "respondent" includes a person against whom a maintenance order has been made under the provisions of this Act;
- (k) "Tribunal" means the Tribunal for the maintenance of parents and dependents established under Section 13.

Application for maintenance orders.

3. (1) Any person, who is unable to maintain himself and is resident of the State of Gujarat; may apply to the Tribunal for an order;

- (i) in case of a parent or grand parent of or above 60 years of age, that one or more of his children or grand children;
- (ii) in case of wife, that her husband;
- (iii) in case of minor son or unmarried daughter, that his or her father and where father is dead his or her mother;
- (iv) in case of dependent (other than a parent, grand parent, wife minor, son or unmarried daughter) if such dependent has not obtained, by testamentary or intestate succession, any share in an estate of his ancestor, that the persons who take the share; pay him a monthly allowance or any other periodical payment or a lumpsum for his maintenance.

(2) An approved person or organisation in whose care a parent, wife, child or dependent resides may apply to the Tribunal for an order that the respondent pay the approved person or organisation a monthly allowance or any other periodical payment or a lumpsum for the purpose of defraying the costs and expenses of maintaining that parent, wife, child or a dependent, as the case may be.

- (3) Where a parent, wife, child or dependent ceases to be in the care of the approved person or organisation any part of the monthly allowance, other periodical payment or lumpsum remaining, after deducting the reasonable cost and expenses of maintaining such parent, wife, child and the dependent shall be held in trust for such parent, wife, child and the dependent, as the case may be.
- (4) Notwithstanding that a person is below the minimum age specified in sub-section (1), this Act shall apply to that person if the Tribunal is satisfied that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or that there is any other special reason.

Explanation.— For the purposes of this section, a parent shall be deemed to maintain himself if his total or expected income and other financial resources are inadequate to provide him with basic amenities and basic physical needs including (but not limited to) shelter, food and clothing.

4. A respondent may serve notice in the prescribed form on other persons liable to maintain the applicant joining them as respondents in the action. Joiner of respondents.
5. (1) The Tribunal may make a maintenance order if it consider that it is just and equitable that the respondent should maintain the applicant and that—
 - (a) the respondent is able to provide maintenance to the applicant after his own requirements and of his spouse and his children have been supplied; and
 - (b) the applicant is unable, inspite of efforts on his part, to maintain himself through work or from his property or from any other source.Maintenance Order.
- (2) When ordering maintenance for the benefit of wife, child or aged or infirm parents, the Tribunal shall have regard to all the circumstances of the case including (but not limited to) the following matters :—
 - (a) the financial needs of the applicant, taking into account reasonable expenses for housing and medical costs;
 - (b) the income, earning capacity, property and other financial resources of the applicant and the manner in which an applicant has spent his saving or dissipated his financial resources;
 - (c) any physical or mental disability of the applicant;
 - (d) the income, earning capacity, Property and other financial resources of the respondent;
 - (e) the expenses incurred by the respondent in supporting his spouse or children;
 - (f) the contributions and provisions, whether financial or otherwise, which the respondent has made for the maintenance of the applicant;
 - (g) if the applicant is living separately, whether the applicant is justified in doing so.
- (3) When ordering maintenance, if any, for the benefit to a dependant (other than wife, minor son, unmarried daughter and parents) regard shall he had to :—
 - (a) the net value of the estate of the deceased after providing for the payment of debts;

- (b) the provisions, if any, made under a will of the deceased in respect of the dependent;
- (c) the degree of relationship between the two;
- (d) the reasonable wants of the dependent;
- (e) the past relations between the dependent and the deceased;
- (f) the value of the property of the dependent and any income derived from the property or from his or her earning or from any other source;
- (g) the number of dependents entitled to maintenance under this Act.

(4) Where there is more than one respondent the Tribunal may apportion the maintenance among the various respondents in such manner as may be just.

(5) The Tribunal shall, before hearing an application under this section, refer the differences between the parties to a conciliation officer for mediation between the parties.

**Power of
Tribunal to
order security
for maintenance.**

6. (1) A maintenance order may provide for the payment of lumpsum, or a monthly allowance or periodical payment for such period as the Tribunal may determine.

(2) The Tribunal may, in its discretion, when awarding maintenance, order the respondent to secure the whole or any part of it by vesting any property in trustees upon trust to pay the maintenance or part thereof out of the income from that property.

(3) The Tribunal may, in awarding maintenance, order the applicant to-

- (a) deposit such minimum sum as the Tribunal may determine with a bank or
- (b) purchase an annuity with an insurer with such minimum sum.

(4) The Tribunal may, in awarding maintenance, give directions as to the manner or method of payment.

**Duration of
orders for
maintenance.**

7. (1) Except where an order for maintenance is expressed to be for any shorter period or where any such order has been rescinded, a maintenance order shall expire-

- (a) if the maintenance was unsecured, on the death of the applicant or the respondent, whichever is the earlier;
- (b) if the maintenance was secured, on the death of the applicant.

(2) Where a maintenance order was made against more than one respondent, the death of a respondent does not affect the liability of the others to continue paying maintenance to the applicant. The applicant may apply to the Tribunal to re-apportion the liability among the surviving respondents.

**Power of
Tribunal to
vary orders
for
maintenance.**

8. (1) The Tribunal may vary or rescind any subsisting order for maintenance, whether secured or unsecured, where it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances of the applicant or respondents or where another person is joined as a respondent.

(2) An application for variation of a maintenance order may be made by-

- (a) the applicant;
- (b) a respondent;
- (c) the Maintenance Officer;
- (d) an approved person organisation referred to in section 3 (2); or

(e) in respect of secured maintenance, the legal personal representative of a respondent.

(3) Where a maintenance order was made against more than one respondent or another respondent is joined, the Tribunal may re-apportion the maintenance upon an application to vary the maintenance order in such manner as it considers just.

9. Maintenance payable to any person under this Act shall not be assignable or transferable or liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim whatsoever.

Maintenance payable under order of Tribunal to be in alienable

2 of 1974.

10. (1) A Maintenance order made under this Act, shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973, and shall be executed in the manner prescribed for the execution of such order by the code.

Enforcement of maintenance order.

(2) An order for maintenance may be executed either by the Tribunal which passed it or by other Tribunal or Ordinary Court to which it is sent for execution.

1 of 1956.

(3) In addition to the mode of execution of orders referred to in sub-sections (1) and (2), a maintenance order passed against a person, who is in receipt of salary from any State or Central Government, or from a local authority or from a Corporation engaged in any trade or industry which is established by a Central or State Government, or from a Government Company as defined in section 617 of the Companies Act, 1956, may be executed by way of attachment of salary payable to him.

(4) Where the salary is attached under sub-section (3), the Tribunal, whether the person liable to pay the amount of maintenance, or the employer or the officer disbursing the salary is or is not within the local limits of the Tribunal's jurisdiction may order that the salary not exceeding 1/3 shall be withheld from such salary by monthly instalments as the Tribunal may direct and upon notice of the order such employer or the disbursing officer, shall remit to the Tribunal the amount of the monthly instalments.

(5) Where the attachable portion of such salary is already being withheld and remitted to a court or a Tribunal in pursuance of a previous and unsatisfied order of attachment, the employer or the disbursing officer shall forthwith return the subsequent order to the Tribunal issuing it with a full statement of all the particulars of the existing attachment.

(6) Every order made under sub-section (3) unless it is returned in accordance with the provisions of sub-section (5), shall without further notice or other process, bind the employer and the employer shall be liable for the sum paid in contravention of the provisions of sub-section (3), (4) and (5) of this section.

11. Where an applicant is unable to make an application under this Act, (whether by reason of physical or mental infirmity or for any other reason), such application may be made on his behalf by-

Applications on behalf of incapacitated applicants.

- (a) any member of his family;
- (b) any person in whose care he resides; or
- (c) any other person whom the applicant has authorised to make such application.

12. (1) The State Government may appoint a maintenance Officer for the maintenance of Parents and Dependents on such terms and conditions as the State Government may determine.

Appointment of Maintenance Officer.

- (2) The maintenance officer may make an application under this Act on behalf of an applicant of or above 60 years of age or a minor child (whether of not the applicant is able to do so) or represent such applicant in any proceeding or appeal under this Act.
- (3) The maintenance officer may consult or direct any of his officers to consult, with the parties concerned in order to assist them to reach agreement by conciliation.
- (4) Notwithstanding that a person is below the minimum age specified in sub-section (2), the Maintenance Officer may, in his discretion make and application on his behalf or represent him if the Maintenance Officer is satisfied that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or if there is any other special reason.

Establishment of Tribunal for Maintenance of Parents and Dependents.

- 13. (1) For the purpose of exercising the jurisdiction and powers conferred on a tribunal for maintenance of Parents and Dependents by this Act, Government shall, as soon as may be after the commencement of this Act, establish, in every district, as many Tribunal for Maintenance of Parents and Dependents and at such places, as the State Government may by notification specify.
- (2) The Presiding Officers of such Tribunal, who shall not be lower in rank of the Deputy Collector or Mamlatdar shall be appointed by the State Government.
- (3) The Presiding Officer of the Tribunal shall vacate his office
 - (a) when he resigns; or
 - (b) where he has been appointed by virtue of holding any office; he ceases to hold that officer;
- (4) Where a person ceases to be the Presiding officer of the Tribunal, the State Government shall, as soon as is reasonably practicable take steps to fill the vacancy but the existence of any vacancy in the tribunal shall not invalidate the acts of the tribunal.
- (5) If the presiding officer of the tribunal is for time being unable to perform the duties of his office either generally or in relation to any particular proceedings the State Government may appoint some other person to discharge the duties of the Presiding officer for any period, not exceeding six months at one time or as the case may be, in relation to those proceeding; and a person so appointed shall, during that period or in relation to those proceedings, have the same powers as the person in whose place he is appointed.
- (6) The presiding officer of the Tribunal when and so long as he is serving on the Tribunal shall be deemed to be a public servant within the meaning of the Indian Penal Code and the proceedings of the Tribunal shall be deemed to be judicial proceedings.

45 of 1860

Tribunal to hear and determine claims.

- 14. (1) The Tribunal shall have jurisdiction to hear and determine in accordance with this Acts all applications made under this Acts.
- (2) The Tribunal shall decide every application made to it expeditiously as possible and ordinarily every application shall be decided within a period of six months reckoned from the date on which such application has been made.
- (3) Sitting of the Tribunal shall be held at such places and times as the Presiding officer of the Tribunal may determine.
- (4) Any interested party may be represented before the Tribunal-
 - (a) by an agent acting without fee, gain, reward or any expectation thereof, in any case in which the tribunal may, at the request of that party and for good reason, permit;

- (b) by the Maintenance Officer;
- (c) by an approved person or organisation through any of its employees or office holders;
- (5) No party to any proceedings before the tribunal may be represented by an Advocate.
- (6) Every summons and notice issued under the hand of the Presiding Officer of the tribunal to any person shall be served on that person-
 - (a) by delivering the summons to the person or to some adult member of his family at his last known place of residence-
 - (b) by leaving the summons at his usual or last known place of residence or business in an envelop addressed to the person;
 - (c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or
 - (d) Where the person is a body of persons or a Company-
 - (i) by delivering the summons to the Secretary or other like officer of the body of persons or company at its registered officer or principal place of business; or
 - (ii) by sending the summons by registered post addressed to the body of persons of company at its registered office or principal place of business;
- (7) Any summons or notice sent by registered post to any person in accordance with sub-section (6) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered and in proving service of the summons, it shall be sufficient to prove that the envelop containing the summons was properly addressed, stamped and posted by registered post.
- (8) The Tribunal shall have the following powers:-
 - (a) to dismiss frivolous or vexatious claims at a preliminary stage on the basis on the affidavits and other documentary evidence;
 - (b) to summon any person to appear before a Conciliation Officer for the purpose of mediation;
 - (c) to summon any person whom it may consider able to give evidence to attend at the hearing of an application;
 - (d) to examine such person as a witness either on oath or otherwise and to require such person to produce such records, documents or articles as the Tribunal may think necessary for the purposes of the proceedings;
 - (e) to allow any person, attending the proceedings any reasonable expenses necessarily incurred by him in so attending to be paid by such party as the Tribunal may determine;
 - (f) to make an order by consent of the parties; and
 - (g) all the powers of a Magistrate with regard to the enforcement of attendance of witnesses and hearing evidence on oath.
- (9) Every person examined as a witness by or before the Tribunal whether on oath or otherwise, shall be legally bound to state the truth and to produce such records, documents or articles as the Tribunal may require.
- (10) The Tribunal may receive as evidence any report, statement, document, information or a matter that may, in its opinion, assist it to deal effectively with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

(11) In proceedings before the Tribunal it shall not be necessary to record the evidence of witnesses at length, but the Tribunal, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what a witness desposes, and such memorandum shall be signed by the witness and the Presiding Officer of the Tribunal and shall form part of the record.

(12) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all exception, be read in evidence in any proceeding before the Tribunal.

(13) The Tribunal may, if it thinks fit, and shall on the application of any of the parties to the proceedings summon and examine any such person as to the facts contained in his affidavit.

Appellate Authority may call for proceedings of the Tribunal.

15. (1) The Appellate Authority either on its own motion or on the application within 14 days of any party aggrieved by a decision of the Tribunal on the ground that it is wrong in law, may call for the proceedings and the grounds of the award and give such order thereon, either by directing a fresh hearing or otherwise, as seems necessary to secure that substantial justice is done.

(2) The powers of revision conferred under this section shall not question the decision of the Tribunal as to the quantum of maintenance awarded or apportioned under this Act.

Appeals

16. (1) Except as provided in this section and section 15, of the decision of the Tribunal shall be final.

(2) The applicant, the Maintenance Officer on behalf of the applicant, a respondent, an approved person or organisation, or any affected party may appeal to the Appellate authority appointed by the State Government in this behalf from the decision of the Tribunal upon any question of law or of mixed law and fact except in any case where the Tribunal has made the order with the consent of the parties unless it is alleged that the consent was obtained by means of fraud, duress; threat or misrepresentation.

(3) The Appellate Authority shall decide every appeal preferred to it as expeditiously as possible and ordinarily every appeal shall be decided within a period of three months reckoned from the date on which such appeal is preferred.

(4) The procedure governing such appeals under sub-section (2) and (3) shall be the same as that for appeals from decisions of the District Court to the High Court.

(5) The Appellate Authority shall have jurisdiction to hear and determine any such appeal and may confirm, vary or annul the decision of the Tribunal on appeal and make such further or other order on such appeal, whether as to costs or otherwise, as the Appellate Authority may consider fit.

(6) There shall be no further right to appeal from decision of the Appellate Authority.

Costs. 17. The costs of:-

(a) an application under this Act shall be in the discretion of the Tribunal.

(b) an appeal shall be in the discretion of the appellate Authority hearing the appeal.

Effect of transfer of property on right of maintenance.

18. (1) Where any person, who, after the commencement of this Act, has transferred, by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferer and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of the property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferer be void.

(2) Where any person has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transfer if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

19. The State Government may approve--

- (a) institutions or organisations engaged in social welfare or the representatives thereof;
- (b) persons professionally engaged in promoting the welfare of the family;
- (c) persons working in the field of social welfare; and
- (d) any other persons;

whose association with a Tribunal would enable it to exercise its jurisdiction more effectively in accordance with the purpose of this Act.

20. The provisions of this Act shall be in addition to and not in derogation of the provisions of Chapter IX (relating to the order of maintenance of wife children and parents) of the Code of Criminal Procedure, 1973 and the provisions of any law for the time being in force in respect of a suit or proceeding for maintenance.

21. (1) The State Government may, subject to the condition of previous publication in the Official Gazette make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for--

- (a) regulating and prescribing the procedure to be followed for applications and the conduct of proceedings under this Act;
- (b) regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given including but not limited to affidavits;
- (c) the manner in which frivolous or vexatious claims may be dismissed at a preliminary stage on the basis of the affidavits and other documentary evidence;
- (d) the discovery of documents and other evidence and public records;
- (e) the manner and method of payment of maintenance awarded under this Act;
- (f) the costs of any proceedings under this Act; and
- (g) the manner in which, the purposes for which and conditions subject to which, institutions, organisations and other persons may be approved for providing assistance to the Tribunal.

(3) Every rule made under this section by the State Government shall be laid, as soon as may be after it is made, before the State Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, the assembly agrees in making any modifications in the rule or the Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Approved person or organisations.

Provisions not to be derogatory to certain laws.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In our society the maintenance of aged parents has been a matter of great concern and of personal obligation arising from the existence of the relationship and quite independent of the possession of any property, ancestral or acquired. Our ancient seets held this obligation on the higher pedestal by declaring that "the aged mother and father, the chaste wife and infant child must be maintained even by doing a hundred misdeeds." Recently the fathers of our Constitution, through Directive Principles of the State policy, contained in article 38 and 41, together with other provisions, have wisely laid down the main objective, namely, the building of a welfare State and egalitarian social order by making effective provisions for securing public assistance in case of old age, sickness and disablement and in other cases of undeserved want.

In the developing age of science and technology our old virtues are giving way to materialistic and separatistic tendencies. Younger generation is neglecting their wives, children and aged and infirm parents, who are now being left beggared and destituted on the scarpheap of society and thereby driven to a life of vagrancy immorality and crime for their subsistance. Thus it has become necessary to provide compassionate and speedy remedy to ameliorate the difficulties being faced by the neglected wives, children and aged and infirm parents.

This Bill seeks to achieve the aforesaid objectives.

Gandhinagar,

Dr. CHANDRIKABEN CHUDASAMA,

Dated the 9th February, 2007.

M.L.A.

FINANCIAL MEMORANDUM

Clause 12 and 13 of the Bill seek to provide for the appointment of the Maintenance Officer and tribunal for the Maintenance of Parents and Dependents, Since the existing Government machinery is intended to be utilized for the implementation of the proposed provisions, there will be no additional expenditure on the establishment. Tentatively speaking, the provisions contained in the Bill when enacted will involve approximately extra recurring expenditure out of the State exchequer to the tune of rupees 5 lakhs per annum.

Gandhinagar,

Dr. CHANDRIKABEN CHUDASAMA,

Dated the 9th February, 2007.

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of Clause (1) empowers the State Government to appoint, by notification in the Official Gazette, the date on which the Act shall come into force.

Clause 12 of the Bill empowers the state Government to appoint Maintenance Officer and to determine the terms and Conditions for their appointments.

Clause 13 of the Bill empowers the state Government to establish in every district at such places and as many Tribunals for Maintenance of Parents and Dependents as the State Government may specify by notification.

Clause 21 empowers the State Government to make rules in respect of the purposes mentioned therein and for the purpose of carrying out all or any of the provisions of the Bill. These rules shall as soon as may after they are made be laid before the Legislative Assembly.

The delegation of legislature power as aforsaid is essential and normal in character.

Gandhinagar,

Dated the 9th February, 2007.

Dr. CHANDRIKABEN CHUDASAMA,

M.L.A.

Gandhinagar,

Dated the 8th March, 2007

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.

(C)



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 12th March, 2007 by Shri Anandiben Patel Minister for Education is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT PROFESSIONAL TECHNICAL EDUCATIONAL COLLEGES OR INSTITUTIONS (REGULATION OF ADMISSION AND FIXATION OF FEES) BILL, 2007.

GUJARAT BILL NO. 15 OF 2007.

A BILL

to make special provision for regulation of admission in the professional technical educational colleges or institutions in the State and fixation of fees in such colleges or institutions and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

- (1) This Act may be called the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title and commencement.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (a) "Admission Committee" means the Admission Committee constituted in accordance with the provisions of section 4;
- (b) "aided college or institution" means a professional educational college or institution, including the University, run or managed by the trust, society or association of persons or organization, receiving financial aid or grant-in-aid from the State Government or the Central Government;
- (c) "Common Entrance Test" means the entrance test conducted for determination of merits of the candidates for the purpose of admission in the different professional courses;
- (d) "Fee Regulatory Committee" means the Fee Regulatory Committee constituted under section 9;
- (e) "Government college or institution" means a professional educational college or institution run and managed by the State Government;
- (f) "Government" means the Government of Gujarat;
- (g) "Government seats" means, -
 - (i) all the seats of the professional courses in the Government colleges or institutions and in the aided colleges or institutions; and
 - (ii) seventy-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions;
- (h) "Management seats" means twenty-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions including fifteen per cent. Non-Resident Indian seats;
- (i) "Non-Resident Indian seats" means fifteen per cent. seats reserved for children or wards or the dependents for the education purpose, of the Non-Resident Indian, to whom admission is to be given in the professional educational colleges or institutions;
- (j) "prescribed" means prescribed by the rules made under this Act;

(k) "Professional courses" means, -

- (i) Bachelor of Engineering and Technology and the Diploma in Engineering;
- (ii) Bachelor of Pharmacy and the Diploma in Pharmacy;
- (iii) Bachelor of Architecture and the Diploma in Architecture;
- (iv) Bachelor of Hotel and Tourism Management and the Diploma in Hotel and Tourism Management;
- (v) Master of Business Administration;
- (vi) Master of Computer Application; and
- (vii) such other courses as the State Government may, by notification in the *Official Gazette*, declare;

(l) "Professional Educational College or Institution" means a college or an institution including the University imparting professional courses by whatever name called, leading to the award of a degree or diploma approved or recognised by the competent statutory authority;

(m) "Unaided college or institution" means a professional educational college or institution including the University not receiving the financial aid or grant-in-aid from the State Government or the Central Government;

(n) "University" means a University established under a law made by the Legislature of the State.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or any authority or in any agreement, all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of this Act.

Admission in professional educational colleges or institutions.

(2) Any admission made in contravention of the provisions of this Act shall be invalid.

4. (1) The State Government shall, for the purpose of admission of students to the professional educational colleges and institutions, constitute one or more Admission Committees consisting of such number of members as may be prescribed. Different Committees may be constituted for the different professional courses.

Constitution of Admission Committee.

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Admission Committee shall guide, supervise and control the entire process of admission of students to the professional educational colleges or institutions.

Preparation of merit list for admission.

5. (1) For the purpose of admission in the professional courses, each Admission Committee shall prepare the merit list of students based on such criteria and in such ratio as may be prescribed.

(2) For the purpose of preparing the list of students for admission under sub-section (1), the authority or the body authorised by the State Government in this behalf, shall conduct the common entrance test in the manner as may be prescribed:

Provided that it shall not be necessary to conduct common entrance test for preparing merit list for the admission to such professional courses as may be prescribed.

Admission to Government seats and management seats.

6. The admission of students in the professional educational colleges or institutions shall be given in the following manner, namely, :-

- (i) all the Government seats shall be filled on the basis of merit list prepared by the Admission Committee; and
- (ii) the management seats to be filled by the management of the respective professional educational college or institution shall be on the basis of *inter-se* merit list of the students to be admitted against the management seats :

Provided that no student shall be admitted against the management seat unless his name appears in the merit list prepared by the Admission Committee :

Provided further that where any Non-Resident Indian seat remains vacant, such seat shall be filled in from the management seats:

Provided also that where any management seat remains vacant, such seat shall be filled in from the Government seats.

Minimum qualifying standard for admission.

7. No student shall be admitted in the professional course unless he fulfills the eligibility criteria including the minimum qualifying marks, as may be prescribed.

8. The admission against the Government seats in each course in each professional educational college or institution shall be made in accordance with the reservation policy of the State Government.

Reservation in admission.

9. (1) The State Government shall, for the purpose of determining the fees for admission of students in the professional educational colleges or institutions, constitute a Fee Regulatory Committee consisting of the following members, namely :-

Constitution of Fee Regulatory Committee.

- (i) a retired judge of the High Court nominated by the State Government, who shall be the Chairperson;
- (ii) ex-Vice-Chancellor, to be nominated by the State Government;
- (iii) the Commissioner or the Director, Technical Education, Gujarat State, or an officer of Education Department holding equivalent post, to be nominated by the State Government *ex-officio*, who shall be the Member-Secretary of the committee;
- (iv) one member representing unaided professional educational colleges or institutions, to be nominated by the State Government; and
- (v) a Chartered Accountant, to be nominated by the State Government;

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Fee Regulatory Committee may adopt its own procedure for the conduct of its business.

10. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, the Fee Regulatory Committee shall determine the fee structure for admission of students in the professional courses. Different fee structure may be determined for admission of students in different professional courses and for different professional educational colleges or institutions.

Powers of Fee Regulatory Committee.

(2) The Fee Regulatory Committee shall have power to, -

- (a) require any unaided professional educational college or institution to place before it the proposed fee structure for

such college or institution alongwith all the relevant documents and the books of accounts;

- (b) verify whether the fee structure proposed by such college or institution is justified;
- (c) approve the fee structure for such college or institution or determine other fee structure which shall be charged by such college or institution for admission of students in the professional courses.

(3) The fee structure so determined by the Fee Regulatory Committee shall be binding to the unaided professional educational colleges or institutions for a period of three years. The fee so determined shall be applicable to a student who is admitted to a professional educational college or institution in that academic year and shall not be revised till the completion of his professional course in that college or institution.

(4) The unaided professional educational college or institution shall not be allowed to charge or collect any fee other than the fees determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time amounting to more than one term fee from a student in an academic year;

(5) (a) The Fee Regulatory Committee shall have powers for the purpose of making inquiry under this Act, of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely : -

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavit; and
- (iv) issuing commission for examination of witnesses for local inspection;

(b) any proceeding before such committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

5 of 1908.

45 of 1860.

Factors for determination of fee. 11. (1) The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an unaided professional educational college or institution taking into consideration the following factors, namely :-

- (a) the location of the technical professional educational institution;

- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) the reasonable surplus required for the growth and development of the institution; and
- (f) such other factors, as the Committee may decide or as directed by the State Government.

(2) The fees to be determined by the Committee shall includes, -

- (i) the tuition fees;
- (ii) library fees;
- (iii) laboratory fees;
- (iv) computer fees;
- (v) caution money; and
- (vi) such other fees, as the Committee may decide or as directed by the State Government.

12. No capitation fee shall be charged or collected by or on behalf of an unaided professional educational colleges or institution or by any person who is in charge of or is responsible for the management of such college or institution from or in relation to any student in consideration of his admission to or continuance in, any professional course of study in such college or institution.

Prohibition of capitation fee.

13. (1) Where the Admission Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has given admission to a student in contravention of the provisions of this Act or has violated any of the provisions of this Act, it may, -

Other course of action for contravention of provisions of Act.

- (i) direct the concerned college or institution to admit the student as per the merit list in place of the student who has been admitted in contravention of the provisions of this Act;
- (ii) direct the concerned college or institution to refund the fee to the student so admitted in contravention of the provisions of this Act;
- (iii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

(2) Where the Fee Regulatory Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has collected the capitation fee or the fees

in excess of the fee determined by the Fee Regulatory Committee under sub-section (1) of section 10, it may, -

- (i) direct the concerned college or institution to refund the fee so collected in excess of the fee determined by the Committee or the refund of capitation fee so collected;
- (ii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

Penalties. 14. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to rupees twenty lakhs.

Cognizance of offence. 15. No court shall take cognizance of any offence punishable under this Act except on a complaint made by an officer authorized in this behalf by the State Government, by notification in the *Official Gazette*.

Members of Committee, officers and employees to be public servant. 16. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Protection of action taken in good faith. 17. No suit, prosecution or other legal proceeding shall lie against any member of the Committee, officer or employee for anything which is in good faith done or purported to be done in pursuance of the provisions of this Act or any rules made there under.

Power of State Government to give directions. 18. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to any professional educational college or institution or to the Committee or the officer, as it may think fit in this regard, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the professional educational colleges or institutions or the Committee or the officers shall be bound by such direction.

Act to override other State laws. 19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Power of State Government to make rules. 20. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no order under sub-section (1) shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

At present, admissions to the professional technical educational colleges or institutions are being governed by the admissions rules framed under the executive orders. In absence of any statutory legislation in this regard, the Supreme Court in its judgment in the case of *P.A. Inamdar and others V/s. State of Maharashtra and others (2005 (2) SCC 537)* has clarified that the State Government in the absence of Central legislation, can come out with the detailed well thought legislation for ensuring fair, transparent and non-exploitative procedure for admission to ensure merit based admission in the unaided professional colleges. The States like Kerala, Karnataka and Andhra Pradesh have enacted the law for regulating the admission of students and fee structures for unaided professional technical education sector. In the State of Gujarat, in absence of any such regulatory legislation, a Committee known as Justice Shri R.J. Shah Committee is functioning and regulating admission process and the fee structures for such unaided professional technical educational colleges or institutions. However, it was specifically mentioned by the Supreme Court

that such Fee Regulatory Committee shall function till a suitable legislation in this regard is enacted by the State. In view of this, it is proposed to enact a law for regulating the admission in professional technical educational colleges or institutions and also to regulate the fees for admissions of student in the professional technical educational courses so as to ensure fair, transparent and non-exploitative procedure for admission and also the charging of just and reasonable fees in unaided professional technical educational colleges or institutions.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain in brief the important provisions of the Bill :-

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides that all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of the Act.

Clause 4.- This clause provides for the constitution of one or more Admission Committees.

Clause 5.- This clause provides for preparation of the merit list of students for admission in the professional courses and also provides for conducting the common entrance test.

Clause 6.- This clause provides for the manner for admission of student based on merit list against the Government seats and the management seats.

Clause 7.- This clause empowers the State Government to prescribe the eligibility criteria including minimum qualifying marks for admission in the professional courses.

Clause 8.- This clause provides that the admissions to Government seats shall be made in accordance with the reservation policy of the State Government.

Clauses 9 and 10.- These clauses provide for the constitution of the Fee Regulatory Committee and its powers.

Clause 11.- This clause provides for the factors to be considered by the Fee Regulatory Committee for determination of fees.

Clause 12.- This clause prohibits the charging of capitation fee.

Clause 13.- This clause provides for course of action to be taken for violation of the provisions of the Act.

Clause 14.- This clause provides for penalty for contravention of provisions of the Act or the rules made thereunder.

Clause 16.- This clause provides that the members of Committee, officers and the employee shall be public servant within the meaning of section 21 of Indian Penal Code.

Clause 17.- This clause provides for protection of action taken in good faith.

Clause 18.- This clause empowers the State Government to issue directions to the professional educational colleges, institutions, committee or the officers as it may think fit for the purpose of carrying out the provisions of the Act.

Clause 19.- This clause provides for overriding effect over the provisions of any other State laws.

Clause 20.- This clause empowers the State Government to make rules for carrying out the purposes of the Act.

Clause 21.- This clause empowers the State Government to make an order for removing the difficulty arising in giving effect to the provisions of the Act.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- Sub-clause (k) of this clause empowers the State Government to declare, by notification in the *Official Gazette*, such other courses to be the professional courses.

Clause 4.- Sub-clause (2) of this clause empowers the State Government to prescribe the term of office and other conditions of the members of the Admission Committee.

Clause 5.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the criteria and the ratio for preparation of the merit list of students in the professional courses;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe the manner in which the common entrance test shall be conducted by the authority or the body authorized in this behalf by the State Government;

(iii) proviso to this clause empowers the State Government to prescribe by rules, the professional courses for which the common entrance test may not be necessary.

Clause 7.- This clause empowers the State Government to prescribe by rules the eligibility criteria and the minimum qualifying marks for the students to be admitted in the professional courses.

Clause 9.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the term of office and other conditions of the members of the Fee Regulatory Committee.

Clause 15.- This clause empowers the State Government to authorize an officer, by notification in the *Official Gazette*, to lodge a complain for taking cognizance of offence by the Court.

Clause 18.- This clause empowers the State Government to give directions to the professional educational college or institution, committee or the officers for the purpose of carrying out the provisions of the Act.

Clause 20.- Sub-clause (1) of this clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of this Act.

Clause 21. Sub-clause (1) of this clause empowers the State Government to make an order, published in the *Official Gazette*, for removing the difficulty in giving effect to the provisions of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 9th March, 2007.

ANANDIBEN PATEL.

Gandhinagar.

D. M. PATEL,

Dated the 12th March, 2007

Secretary,

Gujarat Legislative Assembly.

(C)



The Gujarat Government Gazette

EXTRAORDINARY

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Vol. XLVIII MONDAY, MARCH 12, 2007 / PHALGUNA 21, 1928

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 12th March, 2007 by Shri Ashok Bhatt Minister for Health is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT PROFESSIONAL MEDICAL EDUCATIONAL COLLEGES OR INSTITUTIONS (REGULATION OF ADMISSION AND FIXATION OF FEES) BILL, 2007.

GUJARAT BILL NO. 16 OF 2007.

A BILL

to make special provision for regulation of admission in the professional medical educational colleges or institutions in the State and fixation of fees in such colleges or institutions and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Professional Medical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (a) "Admission Committee" means the Admission Committee constituted in accordance with the provisions of section 4;
- (b) "aided college or institution" means a professional educational college or institution, including the University, run or managed by the trust, society or association of persons or organization, receiving financial aid or grant-in-aid from the State Government or the Central Government;
- (c) "Common Entrance Test" means the entrance test conducted for determination of merits of the candidates for the purpose of admission in the different professional courses;
- (d) "Fee Regulatory Committee" means the Fee Regulatory Committee constituted under section 9;
- (e) "Government college or institution" means a professional educational college or institution run and managed by the State Government;
- (f) "Government" means the Government of Gujarat;
- (g) "Government seats" means,-
 - (i) all the seats of the professional courses in the Government colleges or institutions and in the aided colleges or institutions; and
 - (ii) seventy-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions;
- (h) "Management seats" means twenty-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions including fifteen per cent. Non-Resident Indian seats;
- (i) "Non-Resident Indian seats" means fifteen per cent. seats reserved for children or wards or the dependents for the education purpose, of the Non-Resident Indian, to whom admission is to be given in the professional educational colleges or institutions;
- (j) "prescribed" means prescribed by the rules made under this Act;

(k) "professional courses" means the courses conducted in any of the following disciplines, namely:-

- (i) Medicine, Dentistry, Ayurveda, Homeopathy, Physiotherapy and Nursing, and
- (ii) such other courses as the State Government may, by notification in the *Official Gazette*, declare;

(l) "Professional Educational College or Institution" means a college or an institution including the University imparting professional courses by whatever name called, leading to the award of a degree or diploma approved or recognised by the competent statutory authority;

(m) "Unaided college or institution" means a professional educational college or institution including the University not receiving the financial aid or grant-in-aid from the State Government or the Central Government;

(n) "University" means a University established under any law made by the Legislature of the State.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of this Act.

Admission in professional educational colleges or institutions.

(2) Any admission made in contravention of the provisions of this Act shall be invalid.

4. (1) The State Government shall, for the purpose of admission of students to the professional educational colleges and institutions, constitute one or more Admission Committees consisting of such number of members as may be prescribed. Different Committees may be constituted for the different professional courses.

Constitution of Admission Committee.

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Admission Committee shall guide, supervise and control the entire process of admission of students to the professional educational colleges or institutions.

Preparation of merit list for admission.

5. (1) For the purpose of admission in the professional courses, each Admission Committee shall prepare the merit list of students based on such criteria and in such ratio as may be prescribed.

(2) For the purpose of preparing the merit list of students for admission under sub-section (1), the authority or the body authorised by the State Government in this behalf, shall conduct the common entrance test in the manner as may be prescribed:

Provided that it shall not be necessary to conduct common entrance test for preparing merit list for the admission to such professional course as may be prescribed.

Admission to Government seats and management seats. 6. The admission of students in the professional educational colleges or institutions shall be given in the following manner, namely, :-

- (i) all the Government seats shall be filled on the basis of merit list prepared by the Admission Committee; and
- (ii) the management seats to be filled by the management of the respective professional educational college or institution shall be on the basis of *inter-se* merit list of the students to be admitted against the management seats :

Provided that no student shall be admitted against the management seat unless his name appears in the merit list prepared by the Admission Committee:

Provided further that where any Non-Resident Indian seat remains vacant, such seat shall be filled in from the management seats:

Provided also that where any management seat remains vacant, such seat shall be filled in from the Government seats.

Minimum qualifying standard for admission.

7. No student shall be admitted in the professional course unless he fulfills the eligibility criteria including the minimum qualifying marks, as may be prescribed.

Reservation in admission.

8. The admission against the Government seats in each course in each professional educational college or institution shall be made in accordance with the reservation policy of the State Government.

Constitution of Fee Regulatory Committee. 9. (1) The State Government shall, for the purpose of determining the fees for admission of students in the professional colleges or institutions,

constitute a Fee Regulatory Committee consisting of the following members, namely :-

- (i) a retired judge of the High Court nominated by the State Government, who shall be the Chairperson;
- (ii) ex-Vice-Chancellor of a University, to be nominated by the State Government;
- (iii) the Commissioner of Health, Medical Services, Medical Education and Research, Gujarat State, or an officer of Health and Family Welfare Department holding equivalent post, to be nominated by the State Government *ex-officio*, who shall be the Member-Secretary of the Committee;
- (iv) one member representing unaided professional educational colleges or institutions, to be nominated by the State Government; and
- (v) a Chartered Accountant, to be nominated by the State Government.

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Fee Regulatory Committee may adopt its own procedure for the conduct of its business.

10. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, the Fee Regulatory Committee shall determine the fee structure for admission of students in the professional courses. Different fee structure may be determined for admission of students in different professional courses and for different professional educational colleges or institutions.

**Powers of Fee
Regulatory
Committee.**

(2) The Fee Regulatory Committee shall have power to, -

- (a) require any unaided professional educational college or institution to place before it the proposed fee structure for such college or institution alongwith all the relevant documents and the books of accounts;
- (b) verify whether the fee structure proposed by such college or institution is justified;

(c) approve the fee structure for such college or institution or determine other fee structure which shall be charged by such college or institution for admission of students in the professional courses.

(3) The fee structure so determined by the Fee Regulatory Committee shall be binding to the unaided professional educational colleges or institutions for a period of three years. The fee so determined shall be applicable to a student who is admitted to a professional educational college or institution in that academic year and shall not be revised till the completion of his professional course in that college or institution.

(4) The unaided professional educational college or institution shall not be allowed to charge or collect any other fees than the fees determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time amounting to more than one term fee from a student in an academic year;

(5) (a) The Fee Regulatory Committee shall have powers for the purpose of making inquiry under this Act, of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely :-

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavit; and
- (iv) issuing commission for examination of witnesses for local inspection.

(b) Any proceeding before such Committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Factors for determination of fee.

11. (1) The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an unaided professional educational college or institution for admission of students in the professional courses, taking into consideration the following factors, namely :-

- (a) the location of the professional educational college or institution;
- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) the reasonable surplus required for the growth and development of the college or institution; and

(f) such other factors, as the Committee may decide or as directed by the State Government.

(2) The fees to be determined by the Committee shall includes, -

- (i) the tuition fees;
- (ii) library fees;
- (iii) laboratory fees;
- (iv) computer fees;
- (v) caution money; and
- (vi) such other fees, as the Committee may decide or as directed by the State Government.

12. No capitation fee shall be charged or collected by or on behalf of an unaided professional educational colleges or institution or by any person who is in charge of or is responsible for the management of such college or institution from or in relation to any student in consideration of his admission to or continuance in, any professional course in such college or institution.

Prohibition of capitation fee.

13. (1) Where the Admission Committee, on receipt of any complaint or otherwise, is satisfied after due inquiry that the unaided professional educational college or institution has given admission to a student in contravention of the provisions of this Act or has violated any of the provisions of this Act, it may, -

Other course of action for contravention of provisions of Act.

- (i) direct the concerned college or institution to admit the student as per the merit list in place of the student who has been admitted in contravention of the provisions of this Act;
- (ii) direct the concerned college or institution to refund the fee to the student so admitted in contravention of the provisions of this Act;
- (iii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

(2) Where the Fee Regulatory Committee, on receipt of any complaint or otherwise, is satisfied after due inquiry that the unaided professional educational college or institution has collected the capitation fee or the fees in excess of the fee determined by the Fee Regulatory Committee under sub-section (1) of section 10, it may, -

- (i) direct the concerned college or institution to refund the fee so collected in excess of the fee determined by the Committee or refund the capitation fee so collected;
- (ii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

Penalties.

14. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to rupees twenty lakhs.

Cognizance of offence.

15. No court shall take cognizance of any offence punishable under this Act except on a complaint made by an officer authorized by the State Government in this behalf, by notification in the *Official Gazette*.

Members of Committee, officers and employees to be public servant.

16. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Protection of action taken in good faith.

17. No suit, prosecution or other legal proceeding shall lie against any member of the Committee, officer or employee of the Government for anything which is in good faith done or purported to be done in pursuance of the provisions of this Act or any rules made there under.

Power of State Government to give directions.

18. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to any professional educational college or institution or to the Committee or the officer, as it may think fit in this regard, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the professional educational colleges or institutions or the Committee or the officers shall be bound by such direction.

Act to override other State laws.

19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Power of State Government to make rules.

20. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
 (2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such

modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no order under sub-section (1) shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

At present, admissions to the professional medical educational colleges or institutions are being governed by the admissions rules framed under the executive orders. In absence of any statutory legislation in this regard, the Supreme Court in its judgment in the case of *P.A. Ingamdar and others V/s. State of Maharashtra and others (2005 (2) SCC 537)* has clarified that the State Government in the absence of Central legislation, can come out with the detailed well thought legislation for ensuring fair, transparent and non-exploitative procedure for admission to ensure merit based admission in the unaided professional colleges. The States like Kerala, Karnataka and Andhra Pradesh have enacted the law for regulating the admission of students and fee structures for unaided professional medical education sector. In the State of Gujarat, in absence of any such regulatory legislation, a Committee known as Justice Shri R.J. Shah Committee is functioning and regulating admission process and the fee structures for such unaided professional medical educational colleges or institutions. However, it was specifically mentioned by the Supreme Court that such Fee Regulatory Committee shall function till a suitable legislation in this regard is enacted by the State. In view of this, it is proposed to enact

a law for regulating the admission in professional medical educational colleges or institutions and also to regulate the fees for admissions of student in the professional courses so as to ensure fair, transparent and non-exploitative procedure for admission and also the charging of just and reasonable fees in unaided professional medical educational colleges or institutions.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain in brief the important provisions of the Bill :-

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides that all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of the Act.

Clause 4.- This clause provides for the constitution of one or more Admission Committees.

Clause 5.- This clause provides for preparation of the merit list of students for admission in the professional courses and also provides for conducting the common entrance test.

Clause 6.- This clause provides for the manner for admission of student based on merit list against the Government seats and the management seats.

Clause 7.- This clause empowers the State Government to prescribe the eligibility criteria including minimum qualifying marks for admission in the professional courses.

Clause 8.- This clause provides that the admissions to Government seats shall be made in accordance with the reservation policy of the State Government.

Clauses 9 and 10.- These clauses provide for the constitution of the Fee Regulatory Committee and its powers.

Clause 11.- This clause provides for the factors to be considered by the Fee Regulatory Committee for determination of fees.

Clause 12.- This clause prohibits the charging of capitation fee.

Clause 13.- This clause provides for course of action to be taken for violation of the provisions of the Act.

Clause 14.- This clause provides for penalty for contravention of provisions of the Act or the rules made thereunder.

Clause 16.- This clause provides that the members of Committee, officers and the employee shall be public servant within the meaning of section 21 of Indian Penal Code.

Clause 17.- This clause provides for protection of action taken in good faith.

Clause 18.- This clause empowers the State Government to issue directions to the professional educational colleges, institutions, committee or the officers as it may think fit for the purpose of carrying out the provisions of the Act.

Clause 19.- This clause provides for overriding effect over the provisions of any other State laws.

Clause 20.- This clause empowers the State Government to make rules for carrying out the purposes of the Act.

Clause 21.- This clause empowers the State Government to make an order for removing the difficulty arising in giving effect to the provisions of the Act.

ASHOK BHATT,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- This clause provides that all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of the Act.

Clause 4.- This clause provides for the constitution of one or more Admission Committees.

Clause 5.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the criteria and the ratio for preparation of the merit list of students in the professional courses; (ii) sub-clause (2) of this clause empowers the State Government to prescribe the manner in which the common entrance test shall be conducted by the authority or the body authorized in this behalf by the State Government; (iii) proviso to this clause empowers the State Government to prescribe by rules, the professional courses for which the common entrance test may not be necessary.

Clause 7.- This clause empowers the State Government to prescribe by rules the eligibility criteria and the minimum qualifying marks for the students to be admitted in the professional courses.

Clause 9.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the term of office and other conditions of the members of the Fee Regulatory Committee.

Clause 15.- This clause empowers the State Government to authorize an officer, by notification in the *Official Gazette*, to lodge a complain for taking cognizance of offence by the Court.

Clause 18.- This clause empowers the State Government to give directions to the professional educational college or institution, committee or the officers for the purpose of carrying out the provisions of the Act.

Clause 20.- Sub-clause (1) of this clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of this Act.

Clause 21.- Sub-clause (1) of this clause empowers the State Government to make an order, published in the *Official Gazette*, for removing the difficulty in giving effect to the provisions of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 9th March, 2007.

Gandhinagar

Dated the 12th March, 2007.

ASHOK BHATT.
D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

(C)



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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th March, 2007 by Shri Indravijaysinh Jadeja, Minister Incharge for Information and Broadcasting, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING HOUSES) (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 17 OF 2007.

A BILL

further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2007.

Short title and commencement.

(2) It shall come into force on the 1st April, 2007.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, in section 7A, for the words "at two per cent. of the amount of tax due for each month or part thereof", the words "at such rate not exceeding eighteen per cent. per annum, as the State Government may, by notification in the *Official Gazette*, specify," shall be substituted.

Amendment of section 7A of Guj. 24 of 1977.

Guj. 24
of 1977

STATEMENT OF OBJECTS AND REASONS

The existing provision of section 7A of the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 provides for levy of simple interest at the rate of two per cent. of the amount of tax due for each month or part thereof. It is proposed to reduce the said rate with a view to giving effect to the proposal contained in the Budget Speech of the Hon. Finance Minister in the Legislative Assembly on the 23rd February, 2007.

This Bill seeks to amend the said Act to achieve the aforesaid object.

INDRAVIJAYSINH JADEJA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respects:-

Clause 2.— Sub-section (2) of section 7A proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of simple interest not exceeding eighteen per cent. per annum for the period for which the tax remains unpaid.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 7th March, 2007.

INDRAVIJAYSINH JADEJA.

Gandhinagar
Dated 15th March, 2007.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th March, 2007 by Shri Indravijaysinh Jadeja, Minister Incharge for Information and Broadcasting, is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 18 OF 2007.

A BILL

further to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 2007. Short title and commencement.
 - (2) It shall come into force on the 1st April, 2007.
2. In the Gujarat Entertainments Tax Act, 1977, in section 10, in sub-section (2), for the words "at the rate of twenty-four per cent. per annum", the words "at such rate not exceeding eighteen per cent. per annum, as the State Government may, by notification in the *Official Gazette*, specify," shall be substituted. Amendment of section 10 of Guj.16 of 1977.

Guj. 16 of 1977.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend section 10 of the Gujarat Entertainments Tax Act, 1977 with a view to giving effect to the proposal contained in the Budget Speech of the Hon. Finance Minister in the Legislative Assembly on the 23rd February, 2007.

INDRAVIJAYSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respects:-

Clause 2.— Sub-section (2) of section 10 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of interest.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 7th March, 2007.

INDRAVIJAYSINH JADEJA.

Gandhinagar
dated 15th March, 2007

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 16th March, 2007 by Shri Amit Shah, Minister for Transportation is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 19 OF 2007.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Short title and commencement) Act, 2007.

- (2) It shall come into force on the 1st April, 2007.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as 'the Amendment of principal Act'), in section 2,-

Bom. LXV of 1958.

Bom. LXV of 1958. (1) for clause (1A), the following clause shall be substituted, namely :-

"(1A) "cost of vehicle" in relation to -

- (a) a vehicle manufactured in India means the sale price of the vehicle as shown in the sale invoice of the vehicle issued either by the manufacturer or the dealer of the vehicle; and
- (b) a vehicle imported into India means sum of value of vehicle as assessable under the Customs Act, 1962 and endorsed as such in the Bill of Entry under that Act including the amount of custom duty and any other duty, cess or charges paid or payable thereon;";

52 of 1962.

(2) for clause (2A), the following clause shall be substituted, namely :-

"(2A) "half year" means a period of six months of a year commencing from the 1st day of April and the 1st day of October;";

(3) for clause (4), the following clause shall be substituted, namely :-

(4) "quarter" means a period of three months of a year commencing from the 1st day of April, 1st day of July, 1st day of October and the 1st day of January;";

(4) for clause (9), the following clause shall be substituted, namely :-

"(9) "Year" means the financial year;";

(5) in clause (10), the words "or the rules made thereunder" shall be added at the end.

3. In the principal Act, in section 3, in sub-section (1), -

Amendment of section 3 of Bom. LXV of 1958

(1) for the words "Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Schedules", the words "Second and Third Schedules" shall be substituted;

(2) in the first proviso, -

- (a) for the words "Fourth Schedule or Sixth Schedule or Eighth Schedule or Tenth Schedule", the words "Second Schedule or Third Schedule" shall be substituted;
- (b) for the words, letters and figures "not exceeding Rs. 250", the words, letters and figures "not exceeding Rs. 5000" shall be substituted.

4. In the principal Act, in section 4, -

Amendment of
section 4 of
Bom. LXV of
1958.

(1) in sub-section (1AA), in the Table, -

- (a) in entry (a), -
 - (i) in column 1, the words "or a motor vehicle of like description falling in Part II" shall be deleted;
 - (ii) in column 2, the words "or the *lump sum* tax specified in the Third Schedule" shall be added at the end;
- (b) in entry (b), in column 2, the words "or in case of the ordinary designated omni buses licensed to carry not more than twelve passengers including maxi cab, *lump sum* tax specified in the Third Schedule" shall be added at the end;

(2) in sub-section (1AB), in clause (a), the words "Third Schedule, Fourth Schedule, Fifth Schedule, Sixth Schedule, Seventh Schedule, Eighth Schedule, Ninth Schedule, Tenth Schedule or Eleventh Schedule", shall be deleted.

(3) after sub-section (1AB), following sub-section shall be inserted, namely:-

"(1ABB) Notwithstanding anything contained in this section,-

- (i) where any motor vehicle is registered on or after the 1st April, 2007, the registered owner or the person having possession or control of such vehicle shall pay the tax at the rate of one-twelfth of the annual rate of tax per month for the entire period starting from the first day of the month in which the motor vehicle is registered till the end of that year;
- (ii) where any motor vehicle is registered prior to the 1st April, 2007, the registered owner or the person having possession or control of such vehicle shall pay the tax at the rate of one-twelfth of the annual rate of tax per month for the entire period starting from the period from the next day upto which tax has already been paid till the end of the 31st March, 2008.".

Amendment 5. In the principal Act, in section 7, in clause (b) for the words "Third Schedule" occurring at two places, the words "Second Schedule or the Third Schedule" shall be substituted.

Amendment 6. In the principal Act, in section 8A, in sub-section (1), for the words "at the rate of two per cent. for each month or part thereof", the words "at such rate not exceeding eighteen per cent. per annum, as the State Government may, by notification in the *Official Gazette*, specify" shall be substituted.

Amendment of section 7. In the principal Act, in section 11, in sub-section (2), in clause (c), for the words "Twelfth Schedule", the word "Fourth Schedule" shall be substituted.

Amendment of section 8. In the principal Act, in the section 12B, for the words, "an Inspector of Motor Vehicles", the words "an Assistant Inspector of Motor Vehicles" shall be substituted.

Amendment of section 14 of Bom. LXV of 1958. 9. In the principal Act, in section 14, to sub-section (1), the following proviso shall be added, namely :~

"Provided that no appeal shall be entertained by an appellate authority unless such appeal is accompanied by a proof of payment of twenty-five per cent. of the amount of tax (excluding the amount of penalty and interest) in respect of which appeal has been preferred,".

Amendment of section 25 of Bom. LXV of 1958. 10. In the principal Act, in section 25, for the words "Thirteenth Schedule" the words "Fifth Schedule" shall be substituted.

Amendment of First Schedule to Bom. LXV of 1958. 11. In the principal Act, in the First Schedule,-

(1) (i) in column I, for the portion beginning with the words "Part – I Motor Vehicles" and ending with the words "Solar energy", the words "Types of Motor Vehicles" shall be substituted.

(ii) in clause III,-

(a) for item (d), the following item shall be substituted, namely:-

"(d) Vehicles, the gross vehicle weight of which exceeds 3000 KG. Rs. 3000 plus Rs. 2000 for every 1000 KG. or part thereof in excess of 3000 KG.;"

(b) for items (e), (f), and (g), the following item shall be substituted, namely :-

"(e) Vehicles, the gross vehicle weight of Rs. 6000;"; which does not exceed 3000 KG. brought in for use or kept for use in the State for a temporary period.

(iii) in clause IV,-

(a) in item (a), in column II, for the letters, words and figures, "Rs. 1100 plus Rs. 100", the letters, words and figures "Rs. 2000 plus Rs. 200" shall be substituted;

(b) in item (b),-

(a) in sub-item (i), in column II, for the letters and figures, "Rs. 400", the letters and figures "Rs. 600" shall be substituted.

(b) in sub-item (ii), in column II, for the letters and figures, "Rs. 900", the letters and figures "Rs. 1300" shall be substituted.

(c) in sub-item (iii), in column II, for the letters and figures "Rs. 100", the letters and figures "Rs. 150" shall be substituted;

(iv) in clause IVA, in column II, for the letters and figures "Rs. 500", the letters and figures "Rs. 5000" shall be substituted;

(v) in clause IVAA, -

(a) in item (a), in column II, for the letters and figures "Rs. 13000", the letters and figures "Rs. 20000" shall be substituted;

(b) in item (b), in column II, for the letters and figures "Rs. 18000", the letters and figures "Rs. 30000" shall be substituted;

(vi) in clause IVAAA, -

(a) in item (a),-

(i) in sub-item (i), in column I, the words "including maxi cabs" shall be added at the end, and in column II, for the letters and figures "Rs. 1800", the letters and figures "Rs. 3000" shall be substituted;

(ii) in sub-item (ii), in column II, for the letters and figures "Rs. 3800", the letters and figures "Rs. 6000" shall be substituted;

(iii) in sub-item (iii), in column II, for the letters and figures "Rs. 6000", the letters and figures "Rs. 15000" shall be substituted;

(b) in item (b),-

(i) in sub-item (i), in column II, for the letters and figures "Rs. 6500", the letters and figures "Rs.15000" shall be substituted;

(ii) in sub-item (ii), in column II, for the letters and figures "Rs. 9000", the letters and figures "Rs.15000" shall be substituted;

(vii) clause V shall be deleted;

(viii) in clause VI, -

(a) in sub-clause (i), -

(i) in item (d), in column I, for the figures and letters "2250 KG", the figures and letters "2000 KG." shall be substituted and in the column II, for the figures "1500", the figures "3000" shall be substituted;

(ii) in item (e), in column I, for the figures and letters "2250 KG.", the figures and letters "2000 KG." shall be substituted; and in the column II, for the letters, word and figures "Rs. 1500 plus Rs. 20", the letters, figures and words "Rs. 2000 plus Rs. 200" shall be substituted;

(iii) in item (f), -

(i) in sub-item (i), in column I, for the figures, letters and words "2250 KG. in weight unladen", the letters, figures and words "2000 KG. in weight" shall be substituted; and for column II, the following column shall be substituted, namely :-

"Rs. 3000 plus Rs. 1000 for every additional 1000 KG. or part thereof, in excess of 2000 KG.;"

(ii) in sub-item (ii), for the figures and letters "2250 KG.", the figures and letters "2000 KG." shall be substituted; and the words "or any construction equipment vehicles or breakdown van used for towing disabled vehicles" shall be added at the end.

(ix) after clause VIII, after Explanation IAA, the following explanation shall be inserted, namely :-

"Explanation IAAA.- For the purpose of clauses IVAA and IVAAA, where the sleeper designated omnibus consists of both the berths and the seats, the total number of passengers licenced to carry by such omnibus shall be taken into consideration for the purpose of calculating the rate of tax under this Schedule."

(2) Part II shall be deleted.

12. In the principal Act, for the Second Schedule and the Third Schedule, the following Schedules shall be substituted, namely :-

Substitution of
Second and
Third to Bom.
LXV of 1958,

SECOND SCHEDULE

(See section 3 and sub-section (1AB) of section 4)

Part-I	Motor vehicles registered in the State of Gujarat on or after the 1 st April, 2007.	Maximum rate of lump sum Tax (Rs.)
I	Motor Vehicles (other than transport vehicles)-	
(i)	Motor Vehicles not exceeding 250 KG in weight, unladen adapted and used for invalids.	15 per cent. of cost of the vehicle.
(ii)	Motor Vehicles including a trailer to carry personal effects or a camping trailer for private use, attached to such motor vehicle owned by an individual, an educational institution, a local authority, a public trust, a social welfare institution or a University: Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.	
(iii)	Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power) owned by an individual, an educational institution, a social welfare institution, a public trust, a local authority or a University.	
(iv)	Tractors used solely for agricultural operations.	

II Motor vehicles plying for hire and used for the carriage of passengers.

- (i) Two wheelers vehicles licensed to carry not more than two passengers.
- (ii) Three wheelers vehicles ordinarily known as *auto rickshaw*, licensed to carry not more than six passengers.
- (iii) Four wheelers vehicles licensed to carry not more than six passengers.

III Motor vehicles (including tricycles) used for the carriage of goods or materials -

Motor vehicles (including tricycles) used for the carriage of goods or materials, the gross vehicle weight of which does not exceeds 3000 KG:

Provided that where a tax on motor vehicle is levied by any local authority, the maximum rate of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,-

- (i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;
- (ii) in any other case, be two-thirds of the rates so specified.

(IV) Motor vehicles falling under clause I (except sub- clause (i)) and owned by a person other than an individual, an educational institution, a social welfare institution, a public trust, a local authority or a University. Twice the rates specified in clause I.

(V) Motor vehicles falling under clause I, or clause II and manufactured out of India and imported into India after the 31st March, 2007. Twice the rates specified in clause I or clause II or, as the case may be, clause IV.

Explanation I. -- For the purposes of calculating the rate of *lump sum* tax under this Schedule, if the sale invoice of the vehicle, or as the case may be, the Bill of Entry is not produced for any reason, then, the cost of vehicle shall be calculated as follows, namely :-

- (1) (i) In case of model of such vehicle is being manufactured, the cost of vehicle certified by a local dealer or manufacturer of such vehicle;
- (ii) In case the manufacture of such model has ceased, the prevailing market price of such vehicle certified by the Taxation Authority.
- (2) If the cost of vehicle could not be calculated as per clause (1), the prevailing cost of similar vehicle determined by the Commissioner of Transport, closest in engine capacity and unladen weight of the vehicle in respect of which a tax is to be levied and collected.

Explanation II.- "educational institution" shall mean such educational institution as is recognized by the State Government by order, notified in the *Official Gazette*, in this behalf;

Explanation III.- "social welfare institution" shall mean any institution engaged in any activity conducive to the welfare of the general public and recognized by the State Government by order notified in the *Official Gazette*, for the purposes of this Schedule;

Explanation IV.- "public trust" shall mean a public trust registered under the Bombay Public Trusts Act, 1950 as in force in the State of Gujarat;

Bom. XXIX
of 1950.

Explanation V.- "local authority" shall mean any Municipal Corporation, Municipality, Cantonment Board or Panchayat constituted under any law for the time being in force in the State of Gujarat;

Explanation VI.- "University" shall mean a University established by or under any law for the time being in force in the State of Gujarat.

Explanation VII.- If a motor vehicle is jointly owned by more persons than one, then notwithstanding anything contained in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988, such motor vehicle shall, be deemed to be owned by a person other than an individual.

Part-II Motor Vehicles registered in any other State and brought in for use or kept for use in the State of Gujarat on or after the 1st April, 2007.

Motor Vehicles specified in Part I of this Schedule.

Maximum 100
per cent. of the
tax.

Explanation.- For the purposes of this Schedule, the expression 'tax' means the tax leviable under the Part I.

THIRD SCHEDULE
(See section 3 and sub-section (1AA) of section 4)

Part-I	Motor vehicles registered in the State of Gujarat on or after the 1 st April, 2007 which are transport vehicles.	Maximum rate of <i>lump sum</i> tax
I.	Ordinarily designated omnibuses licensed to carry not more than twelve passengers including maxi cab.	15 percent of the cost of vehicle.
II.	Motor vehicles used for the carriage of goods or material the gross vehicle weight of which exceeds 3000 KG, but does not exceed 7500 KG.	
III.	Motor vehicles used for the carriage of goods or material the gross vehicle weight of which exceeds 7500 KG, but does not exceed 12000 KG.	
IV.	Motor vehicles used for the carriage of goods or material the gross vehicle weight of which exceeds 12000 KG.	

Provided that where a tax on motor vehicle is levied by any local authority, the maximum rate of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,-

- (i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;
- (ii) in any other case, be two-thirds of the rates so specified.

Explanation I.- "local authority" shall mean any Municipal Corporation, Municipality, Cantonment Board or Panchayat constituted under any law for the time being in force in the State of Gujarat;

Explanation II.- For the purposes of calculating the rate of *lump sum* tax under this Schedule if the sale invoice of the vehicle, or as the case may be, the Bill of Entry is not produced for any reason, then, the cost of vehicle shall be calculated as follows, namely :-

- (1) (i) In case of model of such vehicle is being manufactured, the cost of vehicle certified by a local dealer or manufacturer of such vehicle;

(ii) In case the manufacture of such model has ceased, the prevailing market price of such vehicle determined by the Taxation Authority.

(2) If the cost of vehicle could not be calculated as per clause (1), the prevailing cost of similar vehicle determined by the Commissioner of Transport, closest in engine capacity and unladen weight of the vehicle respect of which a tax is to be levied and collected.

Explanation III.— For the purposes of calculating the rate of *lump sum* tax under this Schedule, in case of articulated vehicle and combination of tractor-trailer, the sale price is sum total of sale price of tractor and sale price of trailer or, as the case may be, semi trailer.

Part-II Transport Vehicles registered in the State of Gujarat and the registered owner or person having possession or control of such vehicle opts for the *lump sum* tax.

Motor Vehicles specified in Part I of this Schedule 100 per cent. of the tax.

Part-III Transport vehicles registered in any other State and brought in for use or kept for use on or after the 1st April, 2007.

Motor vehicles specified in Part I of this Schedule 100 per cent. of the tax.

Explanation.— For the purposes of this Schedule, the expression 'tax' means the tax leviable under the Part I.”

13. In the principal Act, the FOURTH SCHEDULE, FIFTH SCHEDULE, SIXTH SCHEDULE, SEVENTH SCHEDULE, EIGHTH SCHEDULE, NINTH SCHEDULE, TENTH SCHEDULE and ELEVENTH SCHEDULE shall be deleted.

Deletation of certain Schedules.

14. In the principal Act, the existing TWELFTH SCHEDULE shall be renumbered as FOURTH SCHEDULE and THIRTEENTH SCHEDULE shall be renumbered as FIFTH SCHEDULE.

Renumbering of Twelfth and Thirteenth Schedules to Bom. LXV of 1958.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 with a view to simplifying and rationalizing the tax structure as proposed in the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on February 23, 2007. Along with simplification and rationalisation, the Bill seeks to bring in administrative efficiency.

The Act provides a tax structure that has different rates of tax based on kinds of fuels used by vehicles. The Bill seeks to remove this differentiation and bring in simplification in the structure of tax rates.

Under the existing provisions of the Act, the *lump sum* tax is levied on the basis of ex-factory price of the vehicle in case of certain types of vehicles manufactured in India, whereas, the *lump sum* tax is charged on the basis of value of vehicle endorsed in the Bill of Entry in case of an imported vehicle. The Bill seeks to change the basis from an ex-factory price to sale price in case of vehicles manufactured in India. The sale price of motor vehicles is inclusive of excise duty and other charges paid at the time of manufacturing. Similarly, the custom duty, other duties, cess and other incidental charges paid at the time of import should also be covered in the basis of price on which tax is taken in case of an imported vehicle. The Bill seeks to include custom duty, other duties, cess or charges incidental to imported vehicle paid by the importer on the vehicle in the cost for the purpose of determining the *lump sum* tax.

At present, certain kinds of vehicles have already been covered under the *lump sum* tax. To extend this process further, the Bill seeks to cover certain more kinds of vehicles under the provision of *lump sum* tax. All other goods vehicles (more than 3000 Kg. G.V.W.) and maxi cabs are also sought to be covered under the *lump sum* tax in lieu of recurring tax on an optional basis.

In order to simplify and rationalise tax rates, the Bill seeks to do away with multiple rates and to introduce the common structure for rates of tax on different types of vehicles. To achieve this objective, the Fourth Schedule to Eleventh Schedule are proposed to be deleted and the Second Schedule and the Third Schedule are proposed to be substituted. At present the *lump sum* tax is being levied on the vehicles on the basis of ex-factory price, seating capacity or the weight of the vehicles depending upon the types of the vehicle. In order to make uniformity, it is proposed that the *lump sum* tax is to be levied only on the basis of sale price of the vehicle. The rates of annual tax in respect of goods vehicles (more than 3,000 KG. G.V.W.) and vehicles used for special services or purposes are sought to be simplified.

Presently, the tax payment cycle in case of a vehicle paying annual tax starts from the month of registration of the vehicle. This has resulted in a situation wherein every month, some vehicles are due for tax payment. Following up on payment and recovery of tax has become a continuous process and thereby has become a difficult administrative function. To simplify the tax payment cycle and to make it uniform, the Bill seeks to make the payment cycle based on financial year criteria. To fulfill this objective, definitions of "year", "half year" and "quarter" are sought to be changed. Due to change in the said definitions, the owner of the vehicle which has been registered prior to 1st April, 2007, who has already paid tax for the part of 2007-08, have been permitted to pay the tax at the rate of one-twelfth of the annual rate of tax for the remaining period of year.

Presently, a simple interest at the rate of two per cent. per month is charged on overdue amount. In order to give relief in the interest burden, the Bill seeks to reduce the rate of interest not exceeding eighteen per cent. per annum.

For the purpose of removal of doubt, it has been clarified by inserting an Explanation in First Schedule to the effect that where a sleeper designated omnibus consists of berths and seats both, the total number of passengers licenced to carry by such omnibus shall be taken into account for the purpose of calculating the rate of tax. For the sake of clarification, the words "construction equipment vehicle" and "maxi cab" have been inserted in the First Schedule.

The Bill provides for the delegation of power of seizure of vehicle in case of default of tax to an officer not lower in rank than that of the Inspector of Motor Vehicles. Under the Motor Vehicles Act, 1988, an Assistant Inspector of the Motor Vehicles is empowered to detain vehicle under certain circumstances prescribed in that Act. In the State Act also, it is proposed to empower the State Government to delegate this power to an officer not lower in rank than that of the Assistant Inspector of the Motor Vehicles.

Against the order of the Taxation Authority, an appeal lies to higher authority. Appeals are filed with a nominal fees of Rs.25/- (Rupees twenty-five only). This tool has been used by defaulters in delaying payment of tax. In order to discourage frivolous appeals and to prevent delay in recovery of dues, this Bill seeks to amend the provision, whereby the appellate authority shall not entertain an appeal unless the Appellant deposits an amount equivalent to 25% of the principal amount of tax due.

This Bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 to achieve the aforesaid objects.

AMIT SHAH,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respects :-

Clause 6.- Section 8A proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, such rate of interest not exceeding eighteen per cent. per annum.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 16th March, 2007. **AMIT SHAH.**

Gandhinagar
Dated 16th March, 2007.

D.M.PATEL,
Secretary,
Gujarat Legislative Assembly.

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Satyameva Jayate

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 2007 by Shri Indravijaysinh Jadeja, Minister for Urban Development is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT EDUCATION CESS (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 20 OF 2007.

A BILL

further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Education Cess (Amendment) Act, 2007. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of Guj.
XXXV of 1962.

2. In the Gujarat Education Cess Act, 1962 (hereinafter referred to as 'the principal Act'), in section 2, in clause (iv), in sub-clause (iii), the word, figures and letter "or 24D" shall be added at the end.

Amendment of
section 3 of Guj.
XXXV of 1962.

3. In the principal Act, in section 3, for clauses (a) and (b), the following clauses shall be substituted, namely :-

- "(a) a surcharge levied on lands under section 5 or 7;
- (b) a tax levied on lands and buildings under section 12;
- (c) a surcharge levied on lands and buildings under section 24A or 24D.".

Amendment of
section 23 of Guj.
XXXV of 1962.

4. In the principal Act, in section 23, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) Where any building assessed to tax is situated in the municipal borough area and if such building or any portion thereof is demolished or removed otherwise than by an order of the Chief Officer and notice in respect of such demolition or removal has been given to the Chief Officer under the Gujarat Municipalities Act, 1963, the municipality shall remit or refund such portion of tax in such manner and subject to such conditions as may be prescribed.".

Guj. 34
of 1964.

Amendment of
Chapter IVA of
Guj. XXXV of
1962.

5. In the principal Act, in the Chapter IVA, in the heading, the words "IN THE CITY AREA" shall be added at the end.

Insertion of new
Chapter IVB in
Guj. XXXV of
1962.

6. After Chapter IVA, the following Chapter shall be inserted, namely :-

"CHAPTER IVB"

SURCHARGE ON LANDS AND BUILDINGS IN THE MUNICIPAL BOROUGH AREA

Levy of
surcharge.

24D. (1) In a Municipal borough area where property tax is levied and collected on basis of carpet area under section 99A of the Gujarat Municipalities Act, 1963, there shall, subject to provisions of this Act, be levied and collected a surcharge on lands and buildings in such Municipal Borough area at the following rates, namely :-

Guj. 34 of
1964.

- (a) where a building or land is used for residential purpose or any purpose other than trade, commerce or industry or the carrying on of a profession or business --
- (i) if the property tax exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of three per cent. of the property tax;

- (ii) if the property tax exceeds one thousand rupees but does not exceed two thousand five hundred rupees, at the rate of five per cent. of the property tax;
- (iii) if the property tax exceeds two thousand five hundred rupees, but does not exceed four thousand five hundred rupees, at the rate of six per cent. of the property tax;
- (iv) if the property tax exceeds four thousand five hundred rupees, but does not exceed six thousand rupees, at the rate of seven per cent. of the property tax; and
- (v) if the property tax exceeds six thousand rupees, at the rate of ten per cent. of the property tax.

(b) where a building or land is used for the purpose of trade, commerce or industry or the carrying on of a profession or business -

- (i) if the property tax exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of seven per cent. of the property tax;
- (ii) if the property tax exceeds one thousand rupees but does not exceed two thousand five hundred rupees, at the rate of eleven per cent. of the property tax;
- (iii) if the property tax exceeds two thousand five hundred rupees, but does not exceed four thousand five hundred rupees, at the rate of fourteen per cent. of the property tax;
- (iv) if the property tax exceeds four thousand five hundred rupees, but does not exceed six thousand rupees, at the rate of sixteen per cent. of the property tax; and
- (v) if the property tax exceeds six thousand rupees, at the rate of twenty per cent. of the property tax.

(2) Where any land, building, tenement or a part of a building is separately assessed to property tax but is simultaneously used for two or more purposes mentioned in sub-section (1), the surcharge under this section shall be levied at the highest rate applicable in relation to any of the purposes for which the land, building, tenement or a part of a building is used.

(3) In computing the amount of surcharge payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee.

24E. (1) The surcharge (including any penalty) shall be collected by the Municipality in the same manner in which the tax on lands and buildings is collected under the provisions of the Gujarat Municipalities Act, 1963.

(2) The collection of surcharge and recovery of penalty on behalf of the Municipality shall be made by the appropriate authority appointed to collect the tax on lands and buildings on behalf of the municipality under the Gujarat Municipalities Act, 1963.

Guj. 34 of
1964.

(3) The Municipality shall in respect of the cost of the collection of the surcharge be entitled to such rebate as may be prescribed.

Application of
certain
sections with
modifications
for levy of
surcharge.

24F. The provisions of sections 13, 14, 16, 17, 18, 19, 21, 23 and 24 shall apply in relation to surcharge levied under section 24D subject to the modifications specified in the Schedule.”

Amendment of
section 28 of
Guj. XXXV of
1962.

7. In the principal Act, in section 28, in sub-section (2), -

- (a) in clause (c), after the word, figures and letter “section 24A”, the word, figures and letter “or 24D” shall be inserted;
- (b) after clause (cc), the following clause shall be inserted, namely :-

“(ccc) rebate which the municipality shall be entitled under sub-section (3) of section 24E;”.

Amendment of
Schedule to
Guj. XXXV of
1962.

8. In the Schedule, -

- (1) in the heading, after the word, figures and letter “section 24C”, the word, figures and letter “and 24F” shall be added;
- (2) in item at serial No. 1, after the word, figures and letter “section 24A”, the word, figures and letter “or 24D” shall be inserted;
- (3) in item at serial No. 3, after the word, figures and letter “section 24B” occurring at two places, the word, figures and letter “or 24E” shall be inserted;
- (4) in item at serial No. 6, after the word, figures and letter “section 24A” occurring at two places, the word, figures and letter “or 24D” shall be inserted;
- (5) In item at serial No. 8, after the words “the City”, the words “or under the Gujarat Municipalities Act, 1963, then the Municipality” shall be inserted.

Guj. 34 of 1964.

STATEMENT OF OBJECTS AND REASONS

Under the existing provision of section 99 of Gujarat Municipalities Act, 1963, the property tax is being levied on the lands and buildings situated in the municipal area on the basis of annual letting value or capital value or the percentage of capital value of the buildings or lands or both. By the Gujarat Municipalities (Amendment) Bill, 2007, the State Government has proposed to amend the said provision by which the Municipalities have been empowered to levy tax on lands and buildings on the basis of the carpet area. Since the education cess is being levied on the property tax, it is considered necessary to make consequential amendments in the Gujarat Education Cess Act, 1962 so as to take power to the State Government to levy surcharge on the tax levied on the lands and buildings on the basis of the carpet area.

This Bill seeks to amend the said Act of 1962 to achieve the aforesaid object.

INDRAVIJAYSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government, to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 4.- Sub- section 2A proposed to be inserted in section 23 by this clause empowers the State Government to prescribe by rules, the manner in which and conditions subject to which the municipality shall remit or refund the tax levied on a building.

Clause 6. - Sub- section (3) of new section 24E proposed to be inserted by this clause empower the State Government to prescribed by rules, the rebate for which the municipality shall be entitled.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 13th March, 2007.

INDRAVIJAYSINH JADEJA.

Gandhinagar,
Dated the 21st March, 2007.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

(C)



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EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March 2007 by Shri Kaushik Patel, Minister for Revenue is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 21 OF 2007.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 2007. Short title and commencement.
- (2) It shall come into force on the 1st April, 2007.

Amendment of 2.
Schedule I to
Bom. LX of
1958.

In the Bombay Stamp Act, 1958, in Schedule I, -

Bom. LX of 1958

(1) in article 20, -

- (a) in clause (a), for the words "Four rupees and twenty-five paise", the words "Three rupees and fifty paise" shall be substituted;
- (b) in clause (b), for the words "Four rupees and twenty-five paise", the words "Three rupees and fifty paise" shall be substituted.

(2) in article 27, in clause (b), in entry (i), for the words "Four rupees and twenty-five paise", the words "Three rupees and fifty paise" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958, with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on the 23rd February, 2007.

Dated the 14th March, 2007.

KAUSHIK PATEL.

Gandhinagar.

D. M. PATEL,

Dated 21st March, 2007.

Secretary,

Gujarat Legislative Assembly.

(C)



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March 2007 by Shri Saurabh Patel, Minister for Energy is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 22 OF 2007.

A BILL

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

<p>I. (1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 2007.</p> <p>(2) It shall come into force on the 1st April, 2007.</p>	<p>Short title and commencement.</p>
--	--------------------------------------

Amendment
of Schedule I
to Bom.XL of
1958.

Bom.XL of
1958.

2. In the Bombay Electricity Duty Act, 1958, in Schedule I, in Part I,-

(1) in item (1),-

(a) in sub-item (a), in column 2, for the figures and words "20 per cent.", the figures and words "10 per cent." shall be substituted;

(b) for sub-item (b), the following sub-item shall be substituted, namely:-

"(b) in urban areas 20 per cent. of Consumption charges. ";

(2) in item (1A), -

(a) in sub-item (a), in column 2, for the figures and words, "15 per cent.", the figures and words "10 per cent." shall be substituted;

(b) for sub-item (b), the following sub-item shall be substituted, namely:-

"(b) in urban areas 20 per cent. of Consumption charges. ";

(3) for item (1B), the following item shall be substituted, namely:-

"(1B) For energy consumption by Hostel for students

(i) in rural areas

10 per cent. of Consumption charges.

(ii) in urban areas

10 per cent. of Consumption charges. ";

(4) in item (3), in column 2, for the figures and words "30 per cent.", the figures and words "25 per cent." shall be substituted;

(5) in item (4), in sub-item (b), in column 2, for the figures and words "30 per cent.", the figures and words "25 per cent." shall be substituted;

(6) in item (7), in column 2, for the figures and words "30 per cent.", the figures and words "25 per cent." shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Electricity Duty Act, 1958 with a view to giving effect to the Budget proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 23rd February, 2007.

Dated the 14th March, 2007.

SAURABH PATEL,

Gandhinagar
Dated 21st March, 2007.

D. M. PATEL,
secretary
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 2007, by Shrimati Anandiben Patel, Minister for Education is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE DHIRUBHAI AMBANI INSTITUTE OF INFORMATION AND COMMUNICATION TECHNOLOGY (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 23 OF 2007.

A BILL

further to amend the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003.

It is hereby enacted in the Fifty-eight Year of the Republic of India as follows:-

1. This Act may be called the Dhirubhai Ambani Institute of Information and Communication Technology (Amendment) Act, 2007.

Short title.

Guj. 6 of
2003.

2. In the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003 (hereinafter referred to as "the principal Act"), in section 2,-

Amendment of
section 2 of Guj.
6 of 2003.

(1) clause (h) shall be deleted;

(2) in clause (j), for the words "the Dhirubhai Ambani Foundation, Mumbai", the words "the Dhirubhai Ambani Memorial Trust, Mumbai" shall be substituted.

Amendment of
section 7 of Guj.
6 of 2003.

3. In the principal Act, in section 7, in sub-section (1), for the words "the Dhirubhai Ambani Foundation", the words "the Dhirubhai Ambani Memorial Trust, Mumbai" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Dhirubhai Ambani Institute of Information and Communication Technology was established in the year 2001 and is conferred the status of a University by the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003.

In view of the reorganisation of the original Reliance Group, the Dhirubhai Ambani Foundation, Mumbai has, after passing the resolution, requested to transfer the management and powers under the said Act to the Dhirubhai Ambani Memorial Trust, Mumbai. Considering the aforesaid request from both the concerned, it is proposed to amend the said Act to that effect.

This Bill seeks to amend the said Act to achieve the aforesaid object.

Dated the 14th March, 2007.

ANANDIBEN PATEL.

Gandhinagar,
Dated 21st March, 2007.

D. M. PATEL,
Secretary
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and translation to be published in the Gujarat Government Gazette. The date of publication to be reported.

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT WATER USERS' PARTICIPATORY IRRIGATION MANAGEMENT BILL, 2007.

GUJARAT BILL NO. 24 OF 2007.

A BILL

to provide for participatory irrigation management by water users in the State of Gujarat.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Water Users' Participatory Irrigation Management Act, 2007. Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (1) "Association" means a Water Users' Association of a minor canal service area established under section 5;
- (2) "Committee" means a Managing Committee;
- (3) "Competent Authority in relation to a minor canal service area" means such officer of the State Government as it may, by notification in the *Official Gazette*, appoint for such service area as may be specified therein;
- (4) "field channel" means any channel or pipe (not being a water course) beyond an outlet or, as the case may be, a turn out constructed by the State Government to supply water from a water course or an outlet and maintained by the holder of land either by himself or jointly with other holders of lands or constructed and maintained by the holder of land by himself or jointly with other holders of lands to obtain water from a water course or an outlet, and includes all subsidiary works connected with any such channel or pipe;
- (5) "holder of land" or "land holder" means a person who is lawfully in possession of such land, whether such possession is actual or not;
- (6) "irrigable command area of a minor canal" means such area of land as is irrigated or is capable of being irrigated from the minor canal, being under its command and includes—
 - (a) such area of cultivated land which, in the opinion of a Competent Authority, receives by percolation or otherwise from a minor canal an advantage beneficial to crop in such land and
 - (b) hydraulically managed irrigated area or an area capable of being irrigated either by gravitational flow or by lift irrigation;
- (7) "minor canal service area" means the area determined as a minor canal service area by the Competent Authority under sub-section (1) of section 3;
- (8) "Managing Committee" means a Managing Committee of an Association constituted under section 29;

- (9) "outlet" means an opening which is constructed by the State Government in a minor canal through which water is delivered into a water course or a field channel;
- (10) "prescribed" means prescribed by rules made under this Act;
- (11) "rotational water supply system" means the system of allocation and distribution of water to land in a service area equitably, in such proportion as the area of culturable command of such land bears to the total area of culturable command of a service area, according to the schedule for supply of water specifying among other things the day, turn, time and duration of such supply of water;
- (12) "service area" means the minor canal service area;
- (13) "turn out" means an opening which is constructed in a water course through which water is delivered into a field channel;
- (14) "water course" means a channel constructed and maintained by any Government to supply water from an outlet;
- (15) "year" means the financial year commencing on and from the 1st April of one year and ending on the 31st March of the next year;
- (16) other words and expressions used but not defined in this Act shall have the meanings respectively assigned to them in the Bombay Irrigation Act, 1879.

Bom. VII of
1879.

3. (1) For the purposes of this Act, the Competent Authority shall determine the irrigable command area of all outlets of a minor canal and declare the same, by notification in the *Official Gazette*, as a minor canal service area.

(2) Where the Competent Authority is of the opinion that it is necessary so to do in the interest of efficient and equitable management of irrigation in the service area, it may, subject to such rules as may be made in this behalf, by notification in the *Official Gazette*, -

- (a) increase the limits of the service area,
- (b) decrease the limits of the service area, or
- (c) alter the boundaries of the service area.

Declaration of
minor canal
service area.

CHAPTER II

ESTABLISHMENT OF WATER USERS' ASSOCIATION

4. In this Chapter, unless the context otherwise requires, a "member" means a member of the Association.

5. For the purposes of this Act, there shall be formed by the Competent Authority a Water Users' Association for each service area consisting of -

- (1) holders of land in such area using the water for the purpose of irrigation, and
- (2) persons residing or carrying on business in such area using water made available to them from the minor canal through sub-minor, field channel, water courses or pipe lines for irrigation or other purposes,

Establishment of
Water Users'
Association.

if the Association represents fifty one per cent of the holders of land in the service area and the aggregate area of land held by such holders of land is not less than fifty one per cent of the service area.

Incorporation of Water Users' Association.

6. (1) The first members of the Water Users' Association and all persons, who may hereafter become members thereof so long as they continue so to be, are hereby constituted a body corporate by the name of _____ Water Users' Association".

(2) The said body shall have perpetual succession and a common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property, movable or immovable, to raise loans on the security of its fund in such manner and subject to such limits and other requirements including guarantee as may be prescribed and to contract and do all things necessary for the purposes of this Act.

Election of President at first meeting of Association.

7. (1) (a) On the formation of the Association, there shall be called the first meeting thereof for election of its President from amongst the member.

(b) The meeting shall be held on such date within four weeks from the date of the formation of the Association as may be fixed by the Competent Authority and shall be presided over by the Competent Authority who shall have such powers and follow such procedure as he deems fit but shall not have right to vote.

(2) The term of the office of the President shall be six years from the date of his election.

Meetings of Association.

8. (1) The Association shall meet at such time and place and shall, subject to sub-section (2), observe such rules of procedure with regard to the transaction of business at its meeting as may be prescribed by regulations.

(2) (a) All the questions at a meeting of the Association shall be decided by a majority of votes of the members present and voting on the question and when there is an equality of votes, the President shall have the second or casting vote;

(b) The quorum of the meetings of the Association shall not be less than one-third of its members :

Provided that the members of the Association falling under clause (2) of section 5 shall have the right to speak or otherwise take part in the proceedings of a meeting of the Association held under clause (a) of sub-section (1) of section 7 or under sub-section (1) but shall not be entitled to vote.

Officers and employees of Association.

9. (1) The Association, in order to enable it to perform its functions, may appoint, —

- (i) a secretary,
- (ii) a minor canal operator, and
- (iii) such other officers and employees as may be determined by it.

(2) The salary and allowances payable to, and other conditions of service of the secretary, minor canal operator and other officers and employees shall be such as may be determined and borne by the Association.

CHAPTER III

PARTICIPATOROY IRRIGATION MANAGEMENT AND OTHER FUNCTIONS OF ASSOCIATION.

10. In this Chapter, unless the context otherwise requires—

(a) “designated person” means the Chairman of the Committee,

(b) “entrusted minor canal” means the minor canal the irrigation management of which is entrusted to an Association under sub-section (1) of section 16.

11. For the purpose of enabling an Association to undertake participatory irrigation management, the Competent Authority shall, so far as possible, provide an assured supply of water from a minor canal on volumetric basis, or such other basis as may be prescribed, to the service area by ensuring that, —

(a) there is a measuring device at the minor canal and

(b) the minor canal is operated in accordance with a programme for supply of water for each season prepared by the Competent Authority in consultation with the designated person.

12. The Competent Authority shall ascertain from the designated person the willingness or otherwise of the Association to participate in the irrigation management of the minor canal from which water is to be supplied to the service area for irrigation.

13. Where an Association expresses its willingness to participate in irrigation management under section 12, it shall be required to enter into an agreement with the State Government, in such form as may be prescribed, providing for such participation.

14. (1) As soon as an agreement is entered into by the Association with the State Government under section 13, there shall be carried out inspection of the minor canal, which is to be managed by the Association under the agreement, jointly by the Competent Authority and the designated person.

(2) The inspection under sub-section (1) shall also be carried out of water courses, if any, existing in the service area, which are to be managed by the Association along with the minor canal.

15. (1) Where, on account of the joint inspection of the minor canal and water courses under section 14, it appears, both to the Competent Authority and the designated person, that it is necessary to carry out repairs to the minor canal and any of the water courses, as mutually agreed upon, before entrustment of the irrigation management of the minor canal along with the water courses, the Association shall carry out the repairs to the minor canal and water course.

(2) The cost of the repairs to the minor canal and water course carried out under sub-clause (1) shall be borne both by the State Government and the Association for such proportion as may be prescribed.

(3) Where Association fails to carry out repairs under sub-section (2) within such time as may be stipulated by the Competent Authority, the same shall be carried out by the Competent Authority, the cost of such shall be borne as provided in sub-section (2).

Definitions.

Competent Authority to provide assured supply of water.

Ascertainment of willingness of Association to undertake irrigation management.

Willing Association to enter into an agreement.

Joint inspection of minor canal.

Repairs to canal.

Entrustment of
irrigation
management to
Association.

16. (1) Where repairs to the minor canal and water courses are carried out under section 15, the Competent Authority shall, by an order in writing, entrust the irrigation management of the minor canal and water courses to the Association.

(2) Where an order under clause (1) is issued, the Association shall take over the irrigation management of the minor canal and water courses and upon the Association taking over the irrigation management of the minor canal and water courses, the designated person shall make an endorsement to that effect on the order so issued.

Construction of
water courses by
Association.

17. (1) Where there do not exist water courses in the service area at the time when irrigation management of the minor canal is entrusted to the Association, the Association shall construct the water courses in the service area.

(2) For the purpose of construction of water courses by the Association, the Competent Authority shall prepare a draft scheme for construction of water courses in the service area and for that purpose, the provisions of sub-section (2) of section 20A and sections 20B to 23 of the Bombay Irrigation Act, 1879 shall, so far as may be, apply as if—

- (a) for the words “field channel” wherever they occur, the words “water course” had been substituted;
- (b) in clause (vi) of sub-section (2) of section 20A, for the words “the canal to this land” appearing at the end, the words “from the outlet of the entrusted minor canal” had been substituted,
- (c) for the words “the authorised canal officer” or “canal officer”, wherever they occur, the words “Competent Authority” had been substituted.

Bom. VII of
1879.

Construction
of field
channels by
Association.

18. Where there does not exist field channels in the service area at the time when irrigation management of minor canal is entrusted to the Association, the Association shall construct field channels in accordance with the provisions of Part III of the Bombay Irrigation Act, 1879, in so far as they are applicable, as if—

- (a) for the words “the authorised canal officer” or “canal officer”, wherever they occur, the words “Competent Authority” had been substituted,
- (b) in clause (vi) of sub-section (2) of section 20A, for the words “the canal to this land” appearing at the end, the words “from the entrusted minor canal to this land” had been substituted.

Bom. VII of
1879.

Functions of
Association.

19. The Association, which enters into an agreement with the State Government under section 13 and to which irrigation management of a minor canal and water courses are entrusted under sub-section (1) of section 16, shall generally undertake irrigation management of the entrusted minor canal and water courses and particularly perform the following functions, namely:—

- (a) to ascertain the demand of water of each holder of land in the service area;
- (b) to measure and receive the quantity of water at the measuring device and to ensure proper apportionment and distribution of the water so received to all holders of land in the service area and for that purpose, to prepare rotational water supply system and implement it;

Bom. VII of
1879.

- (c) to inquire into complaints regarding distribution of water and to take immediate action to remedy them;
- (d) to take steps to prevent unauthorised use of water or waste of water or damage to the entrusted minor canal;
- (e) to carry out normal maintenance and repairs of the entrusted minor canal in accordance with the terms and conditions of the agreement entered into under section 13;
- (f) to pay the water rates levied under section 44 of the Bombay Irrigation Act, 1879 or the occasional water charges levied under section 45 of the said Act to the State Government on or before the due dates for their payment;
- (g) for the purpose of payment of water rates under clause (f), to determine the water rates or, as the case may be, the occasional water rates payable by the land holders and collect the water rates or, as the case may be, the occasional water charges, so determined from the land holders;
- (h) to maintain proper accounts of water received and distributed, and of money and materials received and used;
- (i) to carry out other duties and functions imposed upon the Association by or under this Act and to act according to the terms and conditions of the agreement entered into under section 13;
- (j) to refrain from doing anything which is contrary to the Act or the rules made thereunder and the terms and conditions of the agreement entered into under section 13.

20. (1) The Competent Authority may, from time to time, inspect,—

- (a) the water distribution by the Association in the service area of the entrusted minor canal, and
- (b) the records maintained by the Association in relation to such water distribution.

(2) The Competent Authority may issue to the Association such directions as it deems necessary,—

- (a) where, on inspection under sub-section (1), the Competent Authority is of the opinion that—
 - (i) the water distribution is faulty or
 - (ii) the records are not maintained or are maintained but not properly, or
- (b) to ensure compliance by the Association of the provisions of this Act and the rules made thereunder or of the terms and conditions of the agreement entered into by the Association with the State Government.

(3) The Association shall carry out the directions issued to it by the Competent Authority under sub-section (2).

(4) Where the Association makes persistent default in carrying out the directions issued to it under sub-section (2), the Competent Authority may, notwithstanding anything contained in the agreement, recommend to the State Government to terminate the agreement.

Power of
Competent
Authority to
inspect and give
directions.

Determination
and collection of
water charges by
Association.

21. An Association may determine the water charges due from its members for the water supplied from the minor canal to their land for irrigation and collect the same.

Other
functions of
Association.

22. The Association shall perform the following functions, namely:—

- (1) to receive applications for use of water for irrigation from its members accompanied by such fees as may be determined by the Association,
- (2) to register its members,
- (3) to collect such fees, as are determined by it, from its members,
- (4) to permit supply of water for irrigation to its members,
- (5) to regulate use of water,
- (6) to promote economy in the use of water,
- (7) to encourage members to adopt water saving devices or techniques such as drip, sprinklers and to recommend to the State Government remission of water rates, payable by members who adopt water saving devices and the State Government may, after verification, grant remission subject to such principles as may be prescribed;
- (8) to collect water rates levied under section 44 or 45 of the Bombay Irrigation Act, 1879 from its members,
- (9) to collect such water charges from members for use of water for purposes other than irrigation as may be determined by the Competent Authority with the previous approval of the State Government,
- (10) to make payment to the State Government of water rates collected from its members after deducting thereupon such percentage of cost of collection as may be prescribed,
- (11) to prepare plan for maintenance of the entrusted minor canal and for construction and maintenance of water courses and field channels and all other works related to the entrusted minor canal, water courses and field channels,
- (12) to collect from its members expenses incurred by it in carrying out normal maintenance and repairs of the entrusted minor canal,
- (13) to maintain such records as may be prescribed,
- (14) to perform such other functions as are laid down by or under this Act.

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND REPORTS OF ASSOCIATION.

Fund of
Association.

23. (1) The Association shall have its own fund and all receipts of the Association shall be credited thereto and all payments by the Association shall be made therefrom.

(2) The Association may accept grants, subventions, donations and gifts from the Central Government or the State Government or a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(3) The Association may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as expenditure payable out of the fund of the Association.

(4) All moneys belonging to the fund or Sinking Fund of the Association shall be kept in any corresponding new Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and approved by the State Government for the purpose or invested in securities authorised by the Trusts Act, 1882 at the discretion of the Association.

24. (1) Whenever the Association raises a loan for the purposes of this Act, **Sinking Fund**. it shall establish a fund to be called a Sinking Fund and shall pay into it on such dates as may be approved by the Competent Authority such sum as will, with accumulations of compound interest, be sufficient after payment of all expenses to pay up the loan within the stipulated period:

Provided that if, at any time, the sum standing to the credit of the Sinking Fund is of such amount that if allowed to accumulate at compound interest, it is sufficient to repay the loan within the stipulated period, then, with the permission of the Competent Authority, further payments into such fund may be discontinued.

(2) The Association may apply a Sinking Fund or any part thereof in or towards the discharge of the loan for which the fund is established and, until such loan or part is wholly discharged, shall not apply the same for any other purpose.

25. (1) (a) The Association shall prepare annually on or before such date and in such form and manner, as may be prescribed, a budget for the next financial year, showing the estimated receipts and expenditure. **Budget.**

(b) The Association shall, as soon as may be after the said date, consider the budget estimate so prepared and approve the same subject to such modification as it may make.

(2) Except in the case of emergency, no sum shall be expended by or on behalf of the Association unless the expenditure is covered by provision in the budget as approved.

26. (1) The accounts of the Association shall be prepared and maintained in such form and manner as may be prescribed. **Accounts and Audit.**

(2) The Association shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.

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(3) The accounts of the Association shall be audited by an auditor who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.

(4) The said auditor shall be appointed by the Association.

(5) Every auditor appointed to audit the accounts of the Association under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Association and to require such information from the Association as he may think necessary for performance of his duty as an auditor.

(6) The auditor shall send a copy of his report together with a copy of audited accounts to the Association which shall, as soon as may be after the receipt of the audit report, forward the same to the Competent Authority.

Annual report. 27. The Association shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and an account of activities likely to be undertaken by it in the current financial year and copies of such report shall be forwarded to the Competent Authority.

CHAPTER V

CONSTITUTION OF MANAGING COMMITTEE

Definition. 28. In this Chapter, unless the context otherwise requires, "member" means a member of the Committee.

Constitution of Managing Committee. 29. (1) A Managing Committee of an Association shall consist of, -
 (a) a Chairperson and such number of other members not exceeding eleven as may be determined by the Competent Authority having regard to the number of members of the Association falling under clause (1) of section 5, and
 (b) an officer not below the rank of Additional Assistant Engineer of a division in which the minor canal exists, as may be nominated by an Executive Engineer of such division, *ex-officio*,
 (c) the member referred to in clause (b) shall have the right to speak or otherwise take part in the proceedings of a meeting of the Committee, but shall not be entitled to vote.
 (2) The members of the Managing Committee shall be elected by members of the Association falling under clause (1) of section 5, from amongst themselves in such manner as to give equal representation to all the parts of the service area referred to in sub-section (3).
 (3) For the purpose of sub-section (2), the Competent Authority shall divide the service area in three parts, namely, head reach, middle reach and tail reach.
 (4) The election of members shall be held in accordance with such rules as may be prescribed generally relating to election and in particular in respect of matters such as electoral roll, nomination of candidates, manner of voting, counting of votes, declaration of results of voting, resolution of disputes.

Co-option of members. 30. On constitution of the Committee, the Committee shall co-opt not more than four members from the persons referred to in clause (2) of section 5 and the members so co-opted shall have the right to speak or otherwise take part in the proceedings of a meeting of the Committee but shall not be entitled to vote.

Election of Chairperson. 31. (a) On the constitution of the Committee, there shall be called the first meeting thereof for the election of its Chairperson from amongst the members.
 (b) The meeting shall be held on such date within four weeks from the date on which the Managing Committee is constituted, as may be fixed by the Competent Authority, and shall be presided over by the Competent Authority who shall have such powers and follow such procedure as he deems fit but shall not have the right to vote.

Term of office of members. 32. Term of office of a member shall be six years from the date of his election.

33. On occurrence of any vacancy in the office of a member due to death, resignation or any other reason, the same shall be filled in by the Association by election. Filling of vacancy.

34. A member of the Association shall be disqualified for being elected or being a member of the Committee, if such member of the Association.— Disqualifications.

- (a) is an officer or employee of the Government or of a local authority or of any institution receiving grant in aid from the Government;
- (b) is, or at any time, adjudged an insolvent or has suspended payment of his debts or has compounded with his creditors;
- (c) is of unsound mind and stands so declared by a competent court;
- (d) is or has been convicted of any offence which, in the opinion of the Competent Authority, involves moral turpitude;
- (e) fails to pay any arrears of land revenue or water rates payable to the State Government or charges payable to the Association within the period provided for such payment;
- (f) has, directly or indirectly, interest in any contract by or on behalf of the Association, a gram panchayat, a taluka panchayat or district panchayat or State or Central Government;
- (g) ceases to be a holder of land in the service area;

35. (1) Notwithstanding anything contained in section 32, the Competent Authority may, at any time, remove any member from office if, in its opinion, such a member— Removal or resignation of a member.

- (a) is or has become subject of any of the disqualifications mentioned in section 34
- (b) has been guilty of misconduct in discharge of his duties,
- (c) has become physically or mentally incapable of discharging his duties as a member,
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest, or
- (e) has, without reasonable cause, refused or failed to attend three consecutive meetings of the Committee:

Provided that no member shall be removed from his office unless an opportunity of being heard is given to the member.

(2) Any member may, by writing under his hand addressed to the Association, resign his office.

36. (1) The Committee shall meet at such times and places and shall, subject to sub-sections (2) and (3), observe such rules of procedure with regard to transaction of business at its meetings as may be prescribed by the Committee. Meetings of Committee.

(2) The Chairperson or if, for any reason, he is unable to attend any meeting, any other member, authorised by the Chairperson and present at the meeting, shall preside over the meeting of the Committee.

- (3) (a) All the questions at a meeting of the Committee shall be decided by a majority of votes of the members present and voting on that question and the presiding member shall have the second or casting vote when there is an equality of votes.
- (b) The quorum of the meetings of the Committee shall not be less than three members.

Officers and employees of Committee.

37. The officers and employees appointed by the Association under section 9 shall assist the Committee to enable to perform its functions under this Act.

Acts and proceedings presumed to be valid.

38. (1) No act or proceeding of the Committee shall be questioned or be invalid on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

(2) No act done by any person acting in good faith as a member shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his selection or nomination.

CHAPTER VI

FUNCTIONS OF COMMITTEE

Performance of functions.

39. The Committee shall perform such of the functions of the Association as are from time to time assigned to it by the Association.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for damaging minor canal, etc.

40. Whoever voluntarily and without proper authority—

- (a) damages, alters, enlarges or obstructs entrusted minor canal;
- (b) interferes with or increases or diminishes the supply of water in, or the flow of water from, through, over or under any entrusted minor canal, or, by any means, raises or lowers the level of the water in such canal;
- (c) pollutes or fouls the water of entrusted minor canal so as to render it less fit for the purposes for which it is ordinarily used;
- (d) destroys, defaces or removes any land or level mark or water gauge fixed by the authority of a public servant;
- (e) destroys, tampers with, or removes any apparatus or part of any apparatus for controlling, regulating or measuring the flow of water in an entrusted minor canal;
- (f) passes or causes animals or vehicles to pass, in or across any of the works, banks or channels of an entrusted minor canal contrary to regulations made under section 59;
- (g) causes or knowingly and wilfully permits cattle to graze upon any entrusted minor canal or flood embankment, or tethers or causes or knowingly and wilfully permits cattle to be tethered, upon any such entrusted minor canal or embankment, or roots up any grass or other vegetation growing on any such entrusted minor canal or embankment, or removes, cuts or in any way injures, or causes to be removed, cut or otherwise injured, any tree, bush, grass or hedge intended for the protection of such entrusted minor canal or embankment;
- (h) violates any rule made under section 58 for breach whereof, the State Government may, in such rules, direct that a penalty shall be incurred; and whoever—
- (i) being responsible for the maintenance of a field channel, or using a field channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner;

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shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction, be punished in the case of a first offence with fine which may extend to two thousand rupees, and in the case of a second and subsequent offence, with fine which may extend to five thousand rupees:

41. Whoever, without proper authority,—

- (a) pierces or cuts through or attempts to pierce or cut through or otherwise to damage, destroy or endanger the stability of any entrusted minor canal;
- (b) opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any entrusted minor canal;
- (c) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or an entrusted minor canal on the bank whereby there is a flood embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

For endangering
stability of
minor canal,
etc.

45 of
1860.

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction, be punished in the case of a first offence with fine which may extend to two thousand rupees, and, in the case of a second and subsequent offence with fine which may extend to five thousand rupees.

42. Whenever any person is convicted under either section 40 or 41, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which he is convicted within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, the Competent Authority may remove such obstruction or repair such damage and the cost of such removal or repair, as certified by the said Competent Authority, shall be leviable from such person by the Collector as an arrear of land revenue.

Obstruction to
be removed
and damage
repaired.

43. (1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Offences by
companies.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be prosecuted against and punished accordingly.

Explanation.—For the purpose of this section,—

- (a) “company” means a body corporate and includes a firm or other association of individuals and

Persons employed on entrusted minor canal may take offenders into custody.

(b) "director in relation to firm" means a partner in the firm.

44. Any person in charge of, or employed upon, any entrusted minor canal, may remove from the lands or buildings belonging thereto, and take forthwith to the nearest police station, to be dealt with according to law, any person who within his view—

- (a) wilfully damages, obstructs or fouls any entrusted minor canal; or
- (b) without proper authority interferes with the supply or flow of water, in or from any entrusted minor canal, or in any river, or stream so as to endanger, damage or render less useful any entrusted minor canal.

Saving of prosecution under other laws.

45. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act.

Payment of fine as award to informant.

46. (1) Whenever any person is fined for an offence under this Act, the court, which imposes such fine, or which confirms in appeal or revision sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

(2) Where the fine be awarded by a court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed or, if an appeal be presented till after the decision of the appeal.

47. No court shall take cognizance of an offence punishable under this Act except on a complaint made by the Competent Authority or the President of the Association or the Chairperson of the Committee.

Cognizance of offences.

Compounding of offences.

48. (1) The Association may, either before or after the institution of proceedings for any offence punishable under this Chapter, accept from any person charged with such offence, by way of composition of offence such sum not less than five hundred rupees and not more than five thousand rupees as may be determined by it.

(2) On payment of such sum as may be determined by the Association under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence and any proceedings, if already taken, shall stand abated.

Explanation.—For the purposes of this Chapter, the expression "entrusted minor canal" shall have the meaning assigned to it by clause (b) of section 10 and shall include a water course and a field channel into which the water of the entrusted minor canal flows.

CHAPTER VIII

MISCELLANEOUS

Consequences of alteration of limits of service area.

49. Where, by notification under sub-section (2) of section 3, the limits of any service area has been,—

- (i) increased or
- (ii) decreased,

the Competent Authority may, notwithstanding anything contained in this Act, by order published in the *Official Gazette*, provide for following matters, namely:—

- (a) in the case falling under clause (i), require the Association to include holders of land in the service area so increased as its members and to elect a holder of land in that area as a member of the Committee,
- (b) in the case falling under clause (ii), -
 - (i) require the Association to exclude its member who are holders of land in the service area so decreased and
 - (ii) removal of members of the Committee representing the area so decreased.

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50. Where an Association pays water rates before a date stipulated for its payment, the State Government may, by notification in the *Official Gazette*, reduce the water rates payable by such Association to such extent as it deems fit.

Power to
reduce water
rates.

51. Any dispute or difference arising between members of the Association shall be presented to the Chairperson of the Committee within a period of thirty days from the date it has arisen and the Chairperson may pass such order as he may deem just and proper.

Settlement of
disputes.

52. (1) An appeal shall lie to such officer of the State Government as it may, by notification, specify, against any order or decision of the Association or the Managing Committee affecting a member of the Association or any other individual.

Appeal.

(2) Such appeal shall be made within a period of thirty days from the date of order or decision.

(3) The specified officer may pass such order on the appeal as he may deem just and proper and the order so passed shall be final.

53. (1) An officer of the State Government authorised by notification published in the *Official Gazette*, may on his own motion within two years or, on an application made to him, within one year from the date of any order or decision of the Competent Authority or the Association or the Committee, call for and examine the record of any such order or decision for the purpose of satisfying himself as to the legality, regularity or propriety of such order or decision, and pass such order thereon as he thinks just and proper, within twelve months from the date of service of notice for revision.

Revision.

(2) Where an appeal lies under section 52 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon application.

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given reasonable opportunity of being heard.

54. (1) Where any amount is due from a member of the Association, the Association shall, with the least practicable delay, cause to be presented to the member liable for the payment thereof a bill for the amount due from him specifying the date on or before which the amount shall be paid.

Recovery
of dues.

(2) If the Association is unable to recover the amount due to it from a member, it shall be recovered as an arrear of land revenue.

55. (1) In the performance of its functions under this Act, the Association shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time.

Power of State
Government to
issue directions
to Association.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

Power of
Association to
issue directions.

56. (1) In the performance of its functions under this Act, the Committee shall be bound by such directions on questions of policy as the Association may give in writing to it from time to time:

Provided that the Committee shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Association whether a question is one of policy or not shall be final.

Protection of
action taken in
good faith.

57. No suit, prosecution or other legal proceedings shall lie against the Competent Authority, the Association or, as the case may be, the Committee or any member, officer or servant of the Association or, as the case may be, the Committee for anything which is, in good faith, done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder.

58. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Power of
Association to
make
regulations.

59. The Association may, with the previous approval of the State Government, make regulations not inconsistent with this Act or the rules made thereunder for enabling it to perform its functions under this Act.

Power to
remove
difficulty.

60. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

Savings.

61. The provisions of this Act shall be in addition to and not in derogation of the Bombay Irrigation Act, 1879.

CHAPTER IX

PANCHAYAT MINOR CANAL

Definition.

62. In this Chapter, unless context otherwise requires, "panchayat minor canal" means a minor canal constructed and maintained or controlled by—

- (a) a taluka panchayat in the exercise of its functions in the sphere of agriculture and irrigation as described in Schedule II to the Gujarat Panchayats Act, 1993;
- (b) a district panchayat in the exercise of its functions in the sphere of a minor irrigation project as described in Schedule III to the said Act.

63. The provisions of this Act shall apply to a panchayat minor canal as if in the Act,—

- (1) for the words “minor canal” wherever they occur, the words “panchayat minor canal” had been substituted;
- (2) in clause (3) of section 2 for the words “such officer of the State Government”, the words “such officer of the Taluka Panchayat or, as the case may be, the District Panchayat” had been substituted;
- (3) in Chapter III, for the words “the State Government” wherever they occur, the words “taluka panchayat in relation to the taluka panchayat minor canal or, as the case may be, the district panchayat in relation to the district panchayat minor canal” had been substituted.

STATEMENT OF OBJECTS AND REASONS

At present under various irrigation projects in the State about 15 lakh hectares of land has been covered under irrigation and on account of the completion of the Sardar Sarovar Narmada Project, other 18 lakh hectares of land would be covered under irrigation.

The management of the irrigation systems in the State has become a one-sided affair with the result that the farmers, who are concerned with the irrigation projects, are excluded from their management. The exclusion of farmers from the management has led to some shortcomings such as absence of incentive to farmers to conserve water and economise its use, deprivation of water to tail enders, etc. It has, therefore, become necessary to involve farmers in the management of irrigation projects. This is sought to be secured by the introduction of participatory irrigation management system according to which the Water Users' Association consisting of land holders as its members would participate in the management of the water canals along with their water courses entrusted to them. The main advantage of such introduction would be that it would instill a sense of ownership of the minor canal and its water courses in the land holders and provide equitable distribution of water among the water users and incentive to conserve water and economise its use.

At present, involvement of land holders in the management of irrigation system by participatory management has taken place in about one lakh hectares of land by formation of about 377 Water Users' Association through combined efforts of Irrigation Department, land holders and non-Government Organisations.

It is considered expedient to introduce the participatory irrigation management in other areas of the State covered by irrigation. The Bill seeks to facilitate such introduction by giving statutory support to the combined efforts of Irrigation Department, land users and non-Government Organisations. The salient features of the Bill are as follows :-

- (1) Determination of irrigable command area of outlets of a minor canal and its declaration as a minor canal service area.

- (2) Formation of Water Users' Association for each service area consisting of holders of land using water for irrigation and persons using water for other purposes and its incorporation.
- (3) Supply of water from the minor canal on volumetric basis or such other manner as may be prescribed by rules so long as the former is not introduced.
- (4) Agreement between the State Government and the Association providing for participatory irrigation management of minor canal.
- (5) Entrustment of the irrigation management of the minor canals and water courses to the Association.
- (6) Construction of the water courses and field channels by the Association.
- (7) Entrustment of certain functions to the Association important of which are registration of its members, collection of fees from its members, regulation of use of water, encouraging the members to adopt water saving devices and recommending to the State Government remission of water rates payable by such members.
- (8) Constitution of the Managing Committee of the Association and assignment of the functions of the Association to it.
- (9) Reduction of water rates payable by the Association in the case where the Association pays the same before a stipulated date.
- (10) Application of the provisions of the Act to Panchayat Minor canals.

NAROTTAM PATEL

FINANCIAL MEMORANDUM

Sub-clause (3) of clause 2 empowers the State Government to appoint an officer to be the Competent Authority for the service area of minor canal. The existing Government officer will be appointed as the Competent Authority and, therefore, no additional expenditure on this account would involve from the Consolidation Fund of the State.

NAROTTAM PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects, namely :-

Clause 1.- Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force ;and different dates may be appointed for different provisions for bringing into force.

Clause 2.- Sub-clause (3) of this clause empowers the State Government by notification in the *Official Gazette*, to appoint an officer to be the Competent Authority for the minor canal area and to specify therein the service area.

Clause 3.- (i) Sub-clause (1) of this clause empowers the Competent Authority by notification in the *Official Gazette*, to determine the irrigable command area and declare the same, as a minor canal service area;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe the rules subject to which the Competent Authority shall increase or decrease the limits or alter the boundaries of the service area.

Clause 6.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner, the limits, the guarantee and other requirements subject to which the Association shall raise loans on security of its fund.

Clause 8.- Sub-clause (1) of this clause empowers the Association to prescribe by regulations, such time and such place and rules of procedure with regard to the transactions of business at its meetings.

Clause 11.- This clause empowers the State Government to prescribe by rules, such other basis for providing assured supply of water from a minor canal to the service area.

Clause 13.- This clause empowers the State Government to prescribe by rules, the form of agreement governing terms conditions for participation in irrigation management, to be entered into by the Association and the State Government.

Clause 15.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the proportion of cost of repairs of the minor canal and water course which shall be borne by the State Government and the Association.

Clause 22.- (i) Sub-clause (7) of this clause empowers the State Government to prescribe by rules, the principles subject to which it may grant remission;

(ii) sub-clause (10) empowers the State Government to prescribe by rules, the percentage of cost of collection to be deducted from the collection of water rates;

(iii) sub-clause (13) empowers the State Government to prescribe by rules, the records to be maintained by the Association.

Clause 25.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form and the manner in which budget shall be prepared by the Association.

Clause 26.- Sub-clauses (1) and (2) of this clause empowers the State Government to prescribe by rules, the form and the manner in which the accounts and annual statement of account shall be prepared and maintained.

Clause 27.- This clause empowers the State Government to prescribe by rules, the form and the time for preparation of annual report by the Association.

Clause 29.- Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the rules regulating the election of members of the Association and particularly matters referred to therein.

Clause 36.- Sub-clause (1) of this clause empowers the Managing Committee to prescribe by rules, the time and the place and procedure for transaction of business at its meeting.

Clause 50.- This clause empowers the State Government to reduce the water rates payable by the Association to such extent as the State Government deems fit where the Association pays the water rates before the dates stipulated for its payment.

Clause 52.- This clause empowers the State Government to specify by notification, the officer to whom the appeal shall lie against the order or decision of the Managing Committee.

Clause 53.- This clause empowers the State Government to authorise an officer, by notification in the *Official Gazette*, to call for and examine the records for revision, of his own motion within two years or on an application made to him within one year, any order or decision of the Competent Authority, Association or the Managing Committee.

Clause 58.- This clause empowers the State Government to prescribe, by notification in the *Official Gazette*, rules for all or any of the matters for carrying out the purposes of the Act subject to the condition of previous publication.

Clause 59.- This clause empowers the Association, with the previous approval of the State Government, to make regulations not inconsistent with the provisions of the Act or the rules.

Clause 60.- This clause empowers the State Government by an order published in the *Official Gazette*, to remove the difficulties arising in giving effect to the provisions of the Act within the period of three years.

Dated the 19th March, 2007.

NAROTTAM PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.

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The Gujarat Government Gazette

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Vol. XLVIII] THURSDAY, MARCH 22, 2007/CAITRA 1, 1929

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 25 OF 2007.

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2007.

Short title and commencement.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint

Guj.1
of
2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in Schedule I, the entry at serial No.51C shall be deleted.

Amendment
of Schedule I
to Guj.1 of
2005.

3. In the principal Act, in Schedule II, the entry at serial No.76A shall be deleted.

Amendment
of
Schedule II
to Guj.1 of
2005.

STATEMENT OF OBJECTS AND REASONS

The Government of India has introduced the Taxation Laws (Amendment) Bill, 2007 in the current session of Parliament by which the Additional Duties of Excise (Goods of Special Importance) Act, 1957 is proposed to be amended with a view to drop Tobacco from the First Schedule of the said Act so as to enable the States to levy Value Added Tax on Tobacco.

The existing entry 51C in Schedule I of the Gujarat Value Added Tax Act, 2003 exempts from tax all types of Tobacco on which additional excise duty is levied in lieu of sales tax. The existing entry 76A of the Schedule II of the Gujarat Act, 2003 prescribes the rate of tax at four per cent. on the tobacco of all types to which entry 51 C of Schedule I does not apply. In view of the proposed amendment by the Taxation Laws (Amendment) Bill, 2007, it is considered necessary to delete the entry 51C of Schedule I and entry 76A of Schedule II of Gujarat Value Added Tax Act, 2003. This will enable the State Government to levy the tax on Tobacco of all types under entry 87 of Schedule II of the Gujarat Value Added Tax Act, 2003.

This Bill seeks to achieve the aforesaid object.

VAJUBHAI VALA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect, namely :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 2007.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 22nd March, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

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The Gujarat Government Gazette

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT APPROPRIATION BILL, 2007.

GUJARAT BILL NO. 26 OF 2007.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2008.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2007.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of forty-three thousand five hundred seventy crore, thirty-three lakhs, forty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2007-08 in respect of the services and purposes specified in column 2 of the Schedule.

Withdrawal of
Rs. 4,35,70,33,44,000 from
and out of the
Consolidated Fund of the
State of Gujarat for the
financial year 2007-2008.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

SCHEDULE
(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
		1	2	3
		Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	11,98,74,000	11,98,74,000
2	Agriculture	Revenue	5,79,59,88,000	5,79,59,88,000
		Capital	7,54,50,000	7,54,50,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	1,16,27,15,000	1,16,27,15,000
		Capital	10,000	10,000
4	Animal Husbandry and Dairy Development	Revenue	1,11,96,12,000	1,11,96,12,000
5	Co-operation	Revenue	47,39,15,000	47,39,15,000
		Capital	87,00,000	87,00,000
6	Fisheries	Revenue	81,24,44,000	81,24,44,000
		Capital	5,00,00,000	5,00,00,000
7	Other Expenditure pertaining to Agriculture and Cooperation Department	Capital	59,10,000	59,10,000
8	Education Department	Revenue	3,49,90,000	3,49,90,000
9	Education	Revenue	48,91,72,44,000	1,35,16,20,000
		Capital	1,20,71,46,000	1,20,71,46,000
10	Other Expenditure pertaining to Education Department	Revenue	1,23,65,000	1,23,65,000
		Capital	17,90,45,000	17,90,45,000
11	Energy and Petro-Chemicals Department	Revenue	2,03,45,000	2,03,45,000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	6,36,65,000	6,36,65,000
13	Energy Projects	Revenue	21,81,90,90,000	21,81,90,90,000
		Capital	4,29,14,81,000	4,29,14,81,000
14	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	5,00,000	5,00,000
		Capital	13,00,000	13,00,000
15	Finance Department	Revenue	7,51,85,000	7,51,85,000
16	Tax Collection Charges (Finance Department)	Revenue	82,59,10,000	82,59,10,000
17	Treasury and Accounts Administration	Revenue	45,15,40,000	45,15,40,000
18	Pension and Other Retirement Benefits.	Revenue	20,02,76,50,000	10,00,000
19	Other Expenditure pertaining to Finance Department	Revenue	16,49,74,31,000	16,49,74,31,000
		Capital	1,55,60,000	1,00,000
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue		73,81,15,09,000
		Capital		35,61,08,02,000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	9,02,13,000	9,02,13,000
22	Civil Supplies	Revenue	1,56,86,11,000	1,56,86,11,000
23	Food	Revenue	18,23,27,000	18,23,27,000
		Capital	23,95,000	23,95,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
24	Other Expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department.	Capital	31,00,000	31,00,000
25	Forest and Environment Department	Revenue	2,96,85,000	2,96,85,000
26	Forest	Revenue	1,38,22,55,000	1,38,22,55,000
		Capital	1,02,17,71,000	1,02,17,71,000
27	Environment	Revenue	3,60,00,000	3,60,00,000
28	Other expenditure pertaining to Forest and Environment Department	Capital	62,60,000	62,60,000
29	Governor	Revenue		2,64,87,000
30	Council of Ministers	Revenue	2,48,85,000	2,48,85,000
31	Election	Revenue	73,91,46,000	73,91,46,000
32	Public Service Commission	Revenue	1,16,40,000	2,77,80,000
33	General Administration Department	Revenue	33,48,98,000	33,48,98,000
34	Economic Advice and Statistics	Revenue	10,52,71,000	10,52,71,000
35	Other Expenditure pertaining to General Administration Department	Revenue	2,23,73,10,000	2,23,93,80,000
		Capital	79,65,000	79,65,000
36	State Legislature	Revenue	10,54,00,000	16,60,000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	31,07,000	31,07,000
38	Health and Family Welfare Department	Revenue	8,43,20,000	8,43,20,000
39	Medical and Public Health	Revenue	9,31,22,70,000	9,31,22,70,000
		Capital	63,49,69,000	63,49,69,000
40	Family Welfare	Revenue	1,52,44,85,000	1,52,44,85,000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	16,35,000	16,35,000
		Capital	1,10,00,000	1,10,00,000
42	Home Department	Revenue	15,64,10,000	15,64,10,000
43	Police	Revenue	9,95,93,69,000	9,95,93,69,000
44	Jails	Revenue	29,71,51,000	29,71,51,000
45	State Excise	Revenue	5,58,20,000	5,58,20,000
46	Other Expenditure pertaining to Home Department	Revenue	33,61,29,000	3,00,000
		Capital	1,29,55,95,000	1,29,55,95,000
47	Industries and Mines Department	Revenue	8,02,00,000	8,02,00,000
48	Stationery and Printing	Revenue	38,23,85,000	38,23,85,000
49	Industries	Revenue	35,63,20,000	35,63,20,000
		Capital	1,20,30,50,000	1,20,30,50,000
50	Mines and Minerals	Revenue	35,73,24,000	35,73,24,000
51	Tourism	Revenue	79,66,35,000	79,66,35,000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue	21,86,50,000	21,86,50,000
		Capital	1,50,10,000	1,50,10,000
53	Information and Broadcasting Department	Revenue	58,50,000	58,50,000
54	Information and Publicity	Revenue	28,71,60,000	28,71,60,000
55	Other Expenditure pertaining to Information and Broadcasting	Revenue	3,31,12,000	3,31,12,000
		Capital	35,00,000	35,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
	Department			
56	Labour and Employment Department	Revenue	4,13,10,000	4,13,10,000
57	Labour and Employment	Revenue	1,51,58,04,000	1,51,58,04,000
58	Other Expenditure pertaining to Labour and Employment Department	Capital	55,55,000	55,55,000
59	Legal Department	Revenue	4,65,43,000	4,65,43,000
60	Administration of Justice	Revenue	1,49,13,99,000	1,78,14,46,000
61	Other Expenditure pertaining to Legal Department	Revenue	18,43,97,000	18,43,97,000
		Capital	1,65,06,000	1,65,06,000
62	Legislative and Parliamentary Affairs Department	Revenue	2,09,02,000	1,15,000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	10,00,000	10,00,000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	6,12,35,000	6,12,35,000
65	Narmada Development Scheme	Capital	20,33,75,00,000	20,33,75,00,000
66	Irrigation and Soil Conservation	Revenue	4,24,30,74,000	4,24,30,74,000
		Capital	12,38,81,95,000	12,38,81,95,000
67	Water Supply	Revenue	3,02,55,50,000	3,02,55,50,000
		Capital	7,46,30,50,000	7,46,30,50,000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	25,00,000	25,00,000
		Capital	2,40,20,000	2,40,20,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	3,32,51,000	3,32,51,000
70	Community Development	Revenue	4,60,84,15,000	4,60,84,15,000
71	Rural Housing and Rural Development	Revenue	3,59,17,69,000	1,63,44,00,000
72	Compensation and Assignments	Revenue	63,14,27,000	63,14,27,000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	1,27,94,25,000	1,27,94,25,000
		Capital	7,25,20,000	7,25,20,000
74	Transport	Revenue	3,86,50,48,000	3,86,50,48,000
		Capital	1,91,75,00,000	1,91,75,00,000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	98,06,000	98,06,000
		Capital	7,00,000	7,00,000
76	Revenue Department	Revenue	17,94,59,000	17,94,59,000
77	Tax Collection Charges (Revenue Department)	Revenue	75,38,74,000	75,38,74,000
78	District Administration	Revenue	95,57,53,000	95,57,53,000
79	Relief on account of Natural Calamities	Revenue	5,00,24,27,000	5,00,24,27,000
		Capital	5,48,40,00,000	5,48,40,00,000
80	Dangs District	Revenue	20,75,32,000	20,75,32,000
81	Compensation and Assignments	Revenue	35,71,85,000	19,70,000
		Capital	31,00,000	2,00,000
				33,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
82	Other Expenditure pertaining to Revenue Department	Revenue	97,77,000	97,77,000
		Capital	42,15,000	42,15,000
83	Roads and Buildings Department	Revenue	8,43,20,000	8,43,20,000
84	Non-Residential Buildings	Revenue	2,74,01,05,000	2,74,13,05,000
		Capital	3,17,58,95,000	3,17,58,95,000
85	Residential Buildings	Revenue	84,78,51,000	84,78,51,000
		Capital	29,55,80,000	29,55,80,000
86	Roads and Bridges	Revenue	9,98,35,13,000	9,98,35,13,000
		Capital	8,95,95,01,000	8,95,95,01,000
87	Gujarat Capital Construction Scheme	Revenue	8,11,70,000	8,11,70,000
		Capital	50,70,00,000	50,70,00,000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	12,28,05,000	12,28,05,000
		Capital	6,30,00,000	6,30,00,000
89	Science and Technology Department	Revenue	41,87,75,000	41,87,75,000
90	Other Expenditure pertaining to Science and Technology Department	Revenue	30,34,75,000	30,34,75,000
		Capital	13,81,00,000	13,81,00,000
91	Social Justice and Empowerment Department	Revenue	2,69,55,000	2,69,55,000
92	Social Security and Welfare	Revenue	3,59,60,81,000	3,60,60,81,000
		Capital	11,59,50,000	11,59,50,000
93	Welfare of Scheduled Tribes	Revenue	83,86,15,000	83,86,15,000
		Capital	5,15,00,000	5,15,00,000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	62,55,000	62,55,000
95	Scheduled Castes Sub Plan	Revenue	4,21,74,43,000	4,21,74,43,000
		Capital	57,08,00,000	57,08,00,000
96	Tribal Area Sub-Plan	Revenue	14,68,08,62,000	14,68,08,62,000
		Capital	10,38,75,96,000	10,38,75,96,000
97	Sports, Youth and Cultural Activities Department	Revenue	2,68,80,000	2,68,80,000
98	Youth Services and Cultural Activities	Revenue	46,13,86,000	46,13,86,000
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	15,15,000	15,15,000
100	Urban Development and Urban Housing Department	Revenue	1,86,15,000	1,86,15,000
101	Urban Housing	Revenue	6,63,000	63,97,60,000
102	Urban Development	Revenue	13,07,69,80,000	13,07,69,80,000
		Capital	50,00,00,000	50,00,00,000
103	Compensation, Assignment and Tax Collection Charges	Revenue	94,90,00,000	32,01,03,000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	78,51,000	78,51,000
		Capital	30,11,000	30,11,000
105	Women and Child Development Department	Revenue	1,01,77,000	1,01,77,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	2,23,89,16,000	50,00,000
		Capital	5,08,04,000	5,08,04,000
	GRAND TOTAL	Revenue	2,39,38,05,29,000	78,12,50,21,000
		Capital	82,58,66,92,000	35,61,11,02,000
	TOTAL		3,21,96,72,21,000	1,13,73,61,23,000
				4,35,70,33,44,000

STATEMENT OF OBJECTS AND REASONS

Article 204 (1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet,-

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2008.

The amounts are shown below: - Rs.

(a) Revenue Expenditure	3,17,50,55,50,000
(b) Capital Expenditure	1,18,19,77,94,000

Total :-	4,35,70,33,44,000
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Dated the 23rd March, 2007.

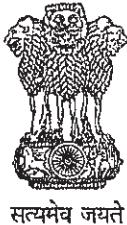
VAJUBHAI VALA

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 23rd March, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

(C)



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY STAMP (GUJARAT SECOND AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 27 OF 2007.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

- (1) This Act may be called the Bombay Stamp (Gujarat Second Amendment) Act, 2007. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of Bom.
LX 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,-

(1) in clause (i), the following Explanation shall be added, namely:-

"Explanation.- The terms "signed" and "signature" also include attribution of electronic record as provided in section 11 of the Information Technology Act, 2000.;"

(2) in clause (ja), the following Explanation shall be added, namely:-

"Explanation.- Where any plant and machinery of a factory transferred or sold with the intention of running the said factory, such transaction shall be deemed to be a transaction of the immovable property.;"

(3) in clause (k), after entry (iii), the following entry shall be added, namely:-

"(iv) received chalan or the certificate issued under e-stamping system or any other system as may be prescribed by rules.;"

(4) in clause (l), the following Explanation shall be added, namely:-

"Explanation.- The term "document" also includes any electronic record as defined in clause (t) of sub-section (l) of section 2 of the Information Technology Act, 2000.;"

Amendment of
section 5 of Bom.
LX 1958.

3. In the principal Act, in section 5, after the word "matters" occurring at two places, the words "or distinct transactions" shall be inserted.

Amendment of
section 9 of Bom.
LX 1958.

4. In the principal Act, in section 9, in clause (b), the words "or any instrument chargeable with duty under Schedule I" shall be added at the end.

Amendment of
section 10 of
Bom. LX of
1958.

5. In the principal Act, in section 10, in sub-section (2B), in clause (iii), the words "and for other systems specified in entry (iv) of clause (k) of section 2" shall be added at the end.

Deletion of
section 32B of
Bom. LX of
1958.

6. In the principal Act, section 32B shall be deleted.

Insertion of
new section
46A in Bom.
LX of 1958.

7. In the principal Act, after section 46, the following section shall be inserted, namely:-

Furnishing of
statement, return
and information.

"46A. (1) The Collector may, for the purpose of this Act, require any trading member of any stock exchange or an association as defined in clause (a) of section 2 of the Forward Contract (Regulation) Act, 1952 or any organization, institute, company or

association or any person liable to pay duty under any Article of Schedule I, to submit a statement or return or to furnish any information in respect of any transaction within such period as may be prescribed by rules.

(2) Where any trading member, organization, institute, company, association or any person fails to submit a statement or return or information as required under sub-section (1) within the prescribed time, the Collector may, without prejudice to any other action which is liable to be taken against such person under any other provisions of this Act, after giving an opportunity of being heard, impose on such person a penalty of a sum not exceeding rupees five thousand for such default.”.

8. In the principal Act, in section 53, in sub-section (1), -

(1) the words, figures and bracket, "except sub-section (3) of section 32A" shall be deleted;

(2) the second proviso thereto shall be deleted.

Amendment of
section 53 of
Bom. LX of
1958.

9. In the principal Act, in Schedule I,-

(1) in Article 39, after clause (g), following Explanation shall be inserted, namely :-

Explanation.- The record of transaction (electronic or otherwise) effected by the firm for itself or by a proprietor for himself, who is a trading member through stock exchange or an association as defined in clause (a) of section 2, of the Forward Contract (Regulation) Act, 1952, shall deemed to be a note or memorandum for the purpose of this Article.”;

Amendment of
Schedule I to
Bom. LX of
1958.

74 of 1952.

(2) after Article 48, the following Article shall be inserted, namely :-

“48A. RECORD OF TRANSACTION (electronic or otherwise) effected by a trading member through a stock exchange or the association,-

(a)	if relating to sale and purchase of Government securities	One hundred rupees
(b)	if relating to purchase or sale of securities, other than those falling under item (a) above,-	
	(i) in case of delivery.	one rupee for every ten thousand rupees or part thereof.

	(ii) in case of non-delivery	twenty paise for every ten thousand rupees or part thereof.
(c)	if relating to futures and options trading	twenty paise for every ten thousand rupees or part thereof.
(d)	if relating to forward contracts of commodities described in clauses (a) to (d) of Article 39, traded through an association or otherwise.	one rupee for every one lakh rupees or part thereof.

Explanation I.- No duty shall be chargeable under this article on agreement or its record or note or memorandum, if proper duty is paid under article 5 or 39, as the case may be.

Explanation II.- For the purpose of clause (b), securities shall have the same meaning as defined under the Securities Contract (Regulation) Act, 1956.".

42 of 1956.

STATEMENT OF OBJECTS AND REASONS

For coping up the issues regarding interpretation and frequent litigation with regard to the provisions of the Bombay Stamp Act, 1958, it has become necessary to simplify, bring clarify and make the provisions of the aforesaid Act, easy to understand.

To widen the scope of the definitions in section 2 regarding "impressed Stamp", "immovable property" and to cope up with the new form of trading after inception of the Depositories Act, 1996 and the Information Technology Act, 2000, suitable amendments are proposed to be inserted in the definitions and new article 48A is proposed to be inserted in the Act.

To plug the loopholes and to make the provisions of the Act easier and simpler, it is proposed to amend the relevant sections 5, 9, 10 and 53 of the Act.

Existing provisions of section 32B provide that where any person aggrieved by an order of the Collector determining the market value under section 31 or 32A may require the Collector to draw up a Statement of the case for referring it to the Chief Controlling Revenue Authority for decision. Section 53 also provides for the powers of said authority to decide such type of disputes under other provisions. In order to club both the provisions, it is proposed to delete section 32B and to make suitable amendment in section 53.

To make the system of collection of stamp duty from trading members and institutions more effective, new section 46A is proposed to be inserted in the Act.

This Bill seeks to amend the Bombay Stamp Act, 1958 to achieve the aforesaid objects.

KAUSHIK PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- Sub-clause (3) of this clause empowers the State Government to prescribe by rules any other system for the payment of duty by impressed stamp.

Clause 7.- Sub-section (1) of section 46A proposed to be inserted by this clause empowers the State Government prescribe by rules the period within which a statement or return or information shall be furnished to the Collector.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 23rd March, 2007.

KAUSHIK PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 23rd March, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative & Parliamentary Affairs Department.



(C)

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

 Vol. XLVIII] THURSDAY, MARCH 29, 2007/CAITRA 8, 1929

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT TECHNOLOGICAL UNIVERSITY BILL, 2007.

GUJARAT BILL NO. 28 OF 2007.

A BILL

to provide for establishment of the Gujarat Technological University in the State by law for the purpose of ensuring systematic, efficient and qualitative education in engineering and technology and to confer the status of University thereon and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Technological University Act, 2007.

Short title and commencement.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (i) "Academic Council" means the Academic Council of the University constituted under section 19;
- (ii) "affiliated college" means a college or institution affiliated to the University under section 8 or 26;
- (iii) "Board" means the Board of Governors of the University constituted under section 15;
- (iv) "Chairman" means the Chairman of the Board;
- (v) "college" means a college or an institution teaching courses leading to a diploma or a degree;
- (vi) "Director" means the Director of the school of studies of the University appointed under section 23;
- (vii) "Dean" means the Dean of the University appointed under section 24;
- (viii) "Finance Committee" means the Finance Committee of University constituted under section 21;
- (ix) "prescribed" means prescribed by the regulations;
- (x) "Registrar" means the Registrar of the University appointed under section 25;
- (xi) "Regulations" means the regulations of the University made under section 43;
- (xii) "University" means the Gujarat Technological University established and incorporated under section 3;
- (xiii) "University College" means a college, which the University may establish or maintain under this Act or a college transferred to and maintained by the University;
- (xiv) "Vice-Chancellor" means the Vice-Chancellor of the University appointed under section 11.

CHAPTER II

THE UNIVERSITY

3. (1) There shall be established a University by the name of 'the Gujarat Technological University'. Establishment and incorporation of University.

(2) The Chancellor, the Vice-Chancellor, the Board, the Academic Council, the Directors, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of 'the Gujarat Technological University'.

(3) The University shall function as an affiliating University and it shall affiliate any other college, institution or University for the conferment of degrees, diplomas or grant certificates to the students admitted therein.

(4) The University shall be a body corporate by the name aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name, sue and be sued.

4. The headquarters of the University shall be at such place as the State Government may, by notification in the *Official Gazette*, specify. Headquarters of University.

5. The objects of the University shall be to develop the knowledge of science, engineering, technology, management and environment for the advancement of quality of life of the mankind in general and in relation to the domain of engineering and technological development and applications. The prime objects of the University shall be to create centres and institutes of excellence in basic and applied science, engineering and technology in particular and other objects shall be as follows, namely:-

(i) to create institutes and centres of excellence for imparting State-of-the-art education, training and research in the fields of science, engineering, technology and management in general;

Objects of University.

- (ii) to create capabilities for development of knowledge, skill and competency at various levels;
- (iii) to create capabilities for upgrading the infrastructure of global standard for education, training and research in the areas related to engineering technology and science;
- (iv) to develop patterns of teaching and training at various levels of educational accomplishments so as to set high standards of education in science, engineering and technology;
- (v) to function as a leading resource centre for knowledge management and entrepreneurship development in the areas of science and technology;
- (vi) to provide inter-relationship for national and global participation in the fields of science, engineering, technology and management;
- (vii) to establish close linkages with industry to make teaching, training and research at the University relevant to the needs of the industry at national and global levels;
- (viii) to make such provisions as would enable affiliated colleges to undertake specialization of studies; and
- (ix) to establish, maintain or take over by agreement and manage colleges, department, centres and institutes of research or specialised studies.

University open to all irrespective of sex, religion, class, creed or opinion. 6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities or bodies, committees, or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession or political or other opinion in order to

entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely :-

- (i) to administer and manage the University and to establish such Institutes and centres for research, education and instruction as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instruction, training and research in such branches of knowledge or learning pertaining to science, engineering, technology and management and allied areas;
- (iii) to conduct innovative experiments in new methods and technologies in the field of science, engineering, technology and management in order to achieve international standards of such education, training and research;
- (iv) to prescribe course of study and curricula and provide for flexibility in the education systems and delivery methodologies including electronic and distance learning;
- (v) to hold examinations and confer degrees, diplomas or grant certificates and other academic distinctions or titles on persons subject to such condition as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates or other academic distinctions or titles in the prescribed manner;
- (vi) to confer honorary degrees or other distinctions in the prescribed manner;

Powers and functions of University.

- (vii) to establish such special centres, specialised study centres or other units for research and instruction as in the opinion of the University are necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other works and to organize exhibitions, workshops, seminars, conferences, etc.;
- (ix) to sponsor and undertake research in all aspects of science, technology and management;
- (x) to offer executive developmental programmes;
- (xi) to collaborate or associate with, advise, administer, control, develop, maintain, any educational institution with like or similar objects;
- (xii) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partly similar to those of the University, through exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects;
- (xiii) to develop and maintain relationships with teachers, researchers and experts in any part the world for achieving the objects of the University;
- (xiv) to regulate the expenditure, manage the finances and to maintain accounts of the University;
- (xv) to receive grants, subventions, subscriptions, donations and gifts for the purpose of University and consistent with the object of the University and to enter into any agreement with Central Government, State Government, the University Grants Commission or other authorities or bodies for receiving any grants;
- (xvi) to receive funds from Industry, national and international organizations or any other sources as gifts, donations, benefactions, bequests by transfers of movable or

immovable properties for the purposes and objects of the University;

- (xvii) to establish, maintain and manage halls and hostels for the residence of students and accommodation for faculty, officers and employees of the University and the guest house;
- (xviii) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xix) to fix, demand and receive or recover fees and such other charges as may be prescribed;
- (xx) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xxi) to purchase or to take on lease or accept as gifts or otherwise any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and to construct, alter and maintain any such buildings or works;
- (xxii) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University with the previous sanction of the State Government;
- (xxiii) to draw and accept, to make and endorse, discount and negotiate promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxiv) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities on such terms and conditions as it may think fit and to pay out of the funds of the University, all

expenses incidental to the raising of money, to repay and redeem any money borrowed with the previous sanction of the State Government;

- (xxv) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University;
- (xxvi) to execute conveyance regarding transfer, mortgages, leases, licenses, agreements and other conveyance in respect of the property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University with the previous sanction of the State Government;
- (xxvii) to admit the students for the courses offered by the University in the prescribed manner;
- (xxviii) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxix) to regulate and enforce discipline among the officers and employees of the University and to provide for such disciplinary measures as may be prescribed;
- (xxx) to institute professorship, associate professorship, assistant professorship, honorary professorship, adjunct professorship, readership, lectureships, endowed professorship, honorary professorship, adjunct professorship and any other teaching, academic or research posts and to prescribe qualifications for the persons to be appointed on such posts;
- (xxxi) to appoints persons as Professors; Associate Professors, Adjunct Professors, Assistant Professors, Readers, Lecturers, Registrar or otherwise as teachers or researchers of the University;
- (xxxii) to delegate all or any of its powers (except the power to make regulations) to any other officer or authority of the University; and

(xxxiii) to do such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

8. (1) The jurisdiction of the University shall extend to the whole of **Jurisdiction of University.** the State of Gujarat.

(2) No college or institution imparting education in engineering and technological subjects shall be associated in any way with or seek affiliation or admission to any privileges of any other University established by law.

(3) Notwithstanding anything contained in any other State laws for the time being in force, the colleges or institutions as may be specified by the State Government, by notification in the *Official Gazette*, imparting education in engineering and technological subjects and affiliated to any other University established by law of the State Legislature shall cease to be affiliated from the University to which such colleges or institutions have been affiliated and such colleges or institutions shall be deemed to be affiliated to the University from such date as specified in the said notification.

(4) The University may impose such terms and conditions upon the colleges or institutions referred to in sub-section (2) as it may consider necessary, conducive or incidental to the attainment of all or any of the objects of the University.

9. (1) The Governor of the State shall be the Chancellor of the **Chancellor. University.**

(2) The Chancellor shall, by virtue of his office, be the head of the University and preside at any convocation of the University.

(3) The Chancellor shall have such other powers as may be conferred on him by this Act or the regulations.

Inspection and inquiry.

10. (1) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories, museum, workshop, and equipments of any college, institution or centre maintained, or affiliated to, the University, and also of the teaching, and other work conducted by the University and of the conduct of examination held by the University; and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finances of the University.

(2) The Chancellor shall in every case give notice to the University of its intention to cause an inspection or an inquiry to be made and the University shall be entitled to be represented thereat.

(3) The Chancellor shall communicate to the University his view with reference to results of such inspection or inquiry and advise the University the action to be taken in the matter.

(4) Where the University does not, within the reasonable time, take action to the satisfaction of the Chancellor, the Chancellor may issue such direction to the University as he thinks fit and the University shall comply with such direction.

(5) The State Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner prescribed in sub-sections (1) to (3) and shall have, for the purposes of such inspection and inquiry, all the powers of the Chancellor under the said sub-sections.

Vice-Chancellor.

11. (1) The Vice-Chancellor of the University shall be appointed by the Chancellor in consultation with the State Government from amongst three persons recommended under sub-section (3) by a Committee appointed for the purpose under sub-section (2).

(2) (a) The Chancellor, for the purpose of sub-section (1) shall appoint a committee which shall consist of the following members, namely:-

- (i) two members to be nominated by the State Government, who shall be eminent technologists and educationists not connected with the University;
- (ii) one member, to be nominated by the All India Council of Technical Education; and
- (iii) one member, to be nominated of the University Grants Commission;

(b) The Chancellor shall appoint one of the members of the committee as its Chairman.

(3) The committee so appointed under sub-section (2) shall within such time and in such manner as directed by the State Government, select three persons whom it considers fit for being appointed as a Vice-Chancellor and shall recommend to the Chancellor the names of the persons so selected together with such other particulars it deems fit.

(4) The person to be appointed as Vice-Chancellor shall,-

- (i) be an eminent educationist, technologist, administrator industrialist having vision for human resource development,
- (ii) have been associated with Gujarat in terms of development, education, philanthropy, industrial or business development or exemplary administration in the services of the State, Corporation or the public bodies.
- (iii) not have attained the age of 65 years on the date of nomination or re-nomination.

(5) The Vice-Chancellor shall hold office for a term of three years and shall be eligible for re-nomination to that office for a further term of three years only.

(6) The emoluments and other terms and conditions for the Vice-Chancellor shall be such as may be determined by the State Government.

(7) Whenever a temporary vacancy occurs in the office of the Vice-Chancellor and it cannot be conveniently and expeditiously filled up in accordance with the provisions of sub-section (1), one of the Directors nominated by the Chancellor shall carry on the current duties of the office of the Vice-Chancellor.

(8) The Vice-Chancellor may resign from his office by writing under his hand addressed to the Chancellor and his resignation shall take effect from the date of acceptance by the Chancellor.

Powers of Vice-Chancellor. 12. (1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall, in the absence of the Chancellor, preside at any convocation of the University and shall preside at the meeting of the Academic Council and the Finance Committee.

(2) The Vice-Chancellor shall preside at the meeting of the Board and shall be entitled to be present with the right to speak at any meeting of any authority or body of the University. The Vice-Chancellor shall ensure that the provisions of this Act and the regulations are faithfully observed and he shall have all powers necessary for this purpose.

(3) The Vice-Chancellor shall,-

(i) exercise general supervision and control over the affairs of the University;

- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instruction and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the regulations or as may be delegated to him by the Board or by the Chancellor.

(4) In any emergency which, in the opinion of the Vice-Chancellor requires that immediate action should be taken, he shall take such action as he deems necessary and shall at the earlier opportunity thereafter furnish information regarding his action to such authority, body or officer as would have in the ordinary courses dealt with the matter:

Provided that if such authority, body or officer is of the opinion that such action ought not to have been taken by the Vice-Chancellor, it may refer the matter to the Board which may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner as it thinks fit and there upon the action shall cease to have effect, or as the case may be, shall take effect in such modified form. However, such modification or annulment shall be without prejudice to the validity of any thing previously done by or under the order of the Vice-Chancellor.

(5) Where the exercise of the powers by the Vice-Chancellor under sub-section (4) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment in accordance with provision of this Act and the regulations not later than six months from the date of the order of the Vice-Chancellor, otherwise such appointment shall cease to have effect on the expiration of a period of six months from the date of the order of the Vice-Chancellor.

CHAPTER III

AUTHORITIES AND OFFICERS OF UNIVERSITY

Authorities of University. 13. The following shall be the authorities of the University, namely:-

- (i) the Board of Governors,
- (ii) the Academic Council,
- (iii) the Finance Committee, and
- (iv) such other bodies of the University as may be declared by the regulations, to be the authorities of the University.

Officers of University. 14. The following shall be the officers of the University, namely :-

- (i) the Chancellor,
- (ii) the Vice-Chancellor,
- (iii) the Directors,
- (iv) the Deans,
- (v) the Registrar, and
- (vi) such other persons in the service of the University as may be declared by the regulations, to be the officers of the University.

Board of Governors. 15. (1) The Board of Governors shall be the supreme authority of the University.

(2) The Board of Governors shall consist of the following members, namely:-

- (i) the Vice-Chancellor, who shall be the Chairman of the Board,
- (ii) one Director, by rotation, to be nominated by the Vice-Chancellor,
- (iii) one Dean, by rotation, to be nominated by the Vice-Chancellor,

- (iv) the Secretary to Government (Higher and Technical Education), Education Department, Government of Gujarat, *ex-officio*,
- (v) the Secretary to Government, Finance Department, Government of Gujarat, *ex-officio*,
- (vi) the Commissioner, Higher Education, Gujarat State, *ex-officio*,
- (viii) two experts academicians, to be nominated by the Board,
- (ix) the Commissioner or the Director of Technical Education, Gujarat State, *ex-officio*,
- (x) two experts representing disciplines such as finance, legal, management and humanities, to be nominated by the Board, and
- (xi) three experts representing different industries, to be nominated by the Board.

(3) The Registrar shall be the Secretary of the Board.

16. (1) The Chairman shall preside at the meetings of the Board.

Powers of Chairman.

(2) The Chairman shall exercise such other powers and perform such other functions as may be assigned to him by or under this Act or the regulations.

17. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and the control of the affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council and the Finance Committee and other committees or authorities constituted by the University.

Powers and functions of Board.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely:-

- (i) to take decision on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to consider and approve the annual report and the annual budget of the University for every financial year;
- (v) to invest moneys and funds of the University and to take decision on the recommendation of the Finance Committee;
- (vi) to publish or finance the publication of studies, treatises, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;
- (vii) to create or abolish posts of teachers and officers and employees of the University;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act;
- (ix) to appoint the Directors of the School of Studies of the University;
- (x) to delegate any of its powers to the Directors, Deans, Registrar or any other officers, employee or any authority of the University or to a committee appointed by it; and
- (xi) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the regulations, and such other powers for achieving the objects of the University.

18. (1) Save as otherwise provided in this section, the term of a nominated member of the Board shall be three years from the date of his nomination.

Term of office and vacancies among members of Board.

(2) The *ex-officio* member shall continue to be a member so long as he holds the office by virtue of which he is the member of the Board.

(3) Any vacancy in the Board occurring before the next reconstruction or before the expiry of the prescribed period shall be filled in the same manner as provided in section 15 and such a member shall hold office for the remainder of the term of the member in whose place he is nominated.

(4) A member shall be eligible for re-nomination for the next term.

(5) A member may resign from his office by writing under his hand addressed to the Chairman and his resignation shall take effect from the date it is accepted by the Chairman.

19. (1) The Academic Council of the University shall consist of the following members, namely:-

Academic Council.

- (i) the Vice-Chancellor, who shall be the Chairman of the Academic Council;
- (ii) two academicians or professionals, to be nominated by the Board;
- (iii) two academicians or professionals in the fields of science, engineering, technology or management to be nominated by the Board;
- (iv) two Directors, by rotation, to be nominated by the Vice-Chancellor;
- (v) two Deans, by rotation, to be nominated by the Vice-Chancellor; and

(vi) one Professor from each discipline of the University, by rotation, to be nominated by the Vice-Chancellor.

(2) The Registrar shall be the Secretary of the Council.

(3) The term of office of the members shall be three years.

Powers and
functions of
Academic
Council.

20. Subject to the provisions of this Act and the regulations, the Academic Council shall exercise following powers and perform the following functions, namely:-

- (i) to exercise control over the academic policies of the University and be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the Faculty of the University or the Board and to take appropriate action thereon;
- (iii) to recommend to the Board, such regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and
- (iv) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

Finance
Committee.

21. (1) The Finance Committee shall consist of the following members, namely:-

- (i) the Vice-Chancellor, who shall be the Chairman of the Committee;
- (ii) one member of the Board, to be nominated by the Vice-Chancellor;
- (iii) one Director, by rotation, to be nominated by the Vice-Chancellor; and

(iv) one expert in the field of finance, to be nominated by the Board.

(2) The Registrar shall be the Secretary of the Committee.

(3) The term of office of the members shall be three years.

22. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual account and annual budget estimates of the University and to advise the Board thereon;
- (ii) to review from time to time the financial position of the University;
- (iii) to make recommendation to the Board on all financial policy matters of the University;
- (iv) to make recommendation to the Board on all proposals involving raising of funds, receipts and expenditures;
- (v) to provide guideline for investment of surplus funds;
- (vi) to make recommendation to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget needs to be incurred;
- (vii) to examine all proposals relating to the revision of pay scales, up gradation of the scales and those items which are not included in the budget prior to placing before the Board; and
- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

Powers and
functions of
Finance
Committee.

23. (1) The Directors shall be appointed by the Vice-Chancellor, with the approval of the Board in such manner and on such terms and conditions as may be prescribed.

Directors.

(2) The Directors shall assist the Vice-Chancellor in managing the academic, administrative and other affairs of the colleges or centres and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Vice-Chancellor.

Deans. 24. (1) The Deans shall be appointed by the Vice-Chancellor, from amongst the Faculties of the University.

(2) The Deans shall assist the Vice-Chancellor and the respective Directors in managing the academic and other affairs of the University, colleges and centres and shall exercise such powers and perform such function as may be prescribed or entrusted to them by the Vice-Chancellor and the Director.

Registrar. 25. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed.

(2) The Registrar shall,-

- (i) be responsible for the custody of records, common seal, the funds of the University and such other properties of the University;
- (ii) place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) be responsible to the Vice-Chancellor for the proper discharge of his functions;
- (iv) be responsible for the administration and services of the University; and conduct of the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) attest and execute all documents on behalf of the University;

- (vi) verify and sign the pleadings in all suits and other legal proceeding by or against the University and all processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the regulations or as may be delegated to him by the Board or by the Vice-Chancellor.

26. (1) A college or institution applying for affiliation to the University shall submit an application to the Registrar one year prior to the proposed date of starting the college:

Affiliation.

Provided that on the recommendation of the Vice-Chancellor, the Board may, if it is satisfied that there are special reasons to do so, after recording such reasons, entertain an application for affiliation not submitted to the Registrar within the aforesaid period.

(2) Any college or institution applying for affiliation shall apply in such form alongwith such fees, in such manner and shall fulfill such norms and criteria as may be prescribed before applying for affiliation.

(3) On receipt of an application made under sub-section (1), the Board shall, in consultation with the Academic Council and after giving to the college or the institution an opportunity of stating its case, determine whether the college will supply a need in the locality, having regard to the type of education intended to be provided by the college, the existing provision for the same type of education made by other college in the neighbourhood and the suitability of the locality where the college is to be established and comply with the provision of the Act and the regulations, record its opinion as to whether the application should be granted or refused either in whole or in part and communicate the decision to the college.

(4) Where an application for affiliation or any part thereof is granted, the order of the Board shall specify the courses of the instructions in respect of which the college is affiliated and where the application or any part thereof is refused, the grounds of such refusal shall be recorded and shall be communicated to the college.

(5) Any college or institution not satisfied with the decision of the Board under sub-section (4), may prefer an appeal to the State Government within sixty days from the date of communication of such decision or order and the decision of the State Government on such appeal shall be final.

Extension of affiliation. 27. Where an affiliated college desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed under section 26, shall as far as possible, be followed.

Inspection of colleges and report. 28. (1) Every affiliated college shall furnish such reports, returns and other information as the Board after consulting the Academic Council may require in order to judge the efficiency of such college.

(2) The Board shall cause every such college to be inspected from time to time by the inspection committee consisting of the Director who shall be the Chairman and such other members, as may be appointed by the Board in accordance with the regulations.

(3) It shall be the duty of the inspection committee on the direction by the Board in this behalf, to inspect an affiliated college, and make a report to the Board.

(4) The Board may call upon the college so inspected to take, within a specified period, such action as may appear to it to be necessary in respect of any of the matters referred to in section 26.

Withdrawal of affiliation. 29. (1) The rights conferred on a college by affiliation may be withdrawn in whole or in part or modified if the college has failed to carry

out any of the provisions of section 26 or the regulations or has failed to observe any of the conditions of its affiliation or the college is conducted in a manner which is prejudicial to the interests of education.

(2) A motion for the withdrawal or the modification of such rights shall be initiated only in the Board. The member of the Board who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(3) Before taking such motion into consideration, the Board shall send a copy of the notice and written statement referred to in sub-section (2), to the principal of the college concerned, together with intimation that any representation in writing submitted within a period specified in such intimation on behalf of the college will be considered by the Board:

Provided that the period so specified may, if necessary, be extended by the Board.

(4) On receipt of the representation or on the expiry of the period referred to in sub-section (3), the Board after considering the notice of motion, statement and the representation, and after such inspection by any competent person or persons authorized by the Board in this behalf, and such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall by a resolution on the grounds stated therein, withdraw in whole or in part, or modify, the rights conferred by the affiliation and shall communicate to the concerned college:

Provided that where the views of the Academic Council with regard to the withdrawal or modification of the rights conferred by affiliation are not acceptable to the Board, it shall, before passing such resolution, refer the matter again to the Academic Council, with or without its comments and the Academic Council shall communicate again its views in the matter to the Board.

**Appeal
against
withdrawal
of affiliation.**

30. Any college aggrieved by the resolution withdrawing wholly or partly or modifying the rights conferred by affiliation passed under sub-section (4) of section 29, may make an appeal to the State Government within sixty days from the date of communication of the resolution and the decision of the State Government on such appeal shall be final.

**Withholding
or reduction
of grant to an
affiliated
college.**

31. The Board may, on recommendation of the Academic Council, recommend to the State Government withholding or reduction of grant to an affiliated college which on a report by an inspection committee or otherwise, is found to be making persistent default in carrying out the conditions of affiliation.

**Post-graduate
teaching.**

32. All the post-graduate instructions, teaching and training shall be conducted by the University or by the affiliated colleges in such subjects as may be prescribed and recognized by the University.

CHAPTER IV

SUPPLEMENTARY PROVISIONS

**Fund of
University**

33. (1) The University shall establish a fund to be called the University Fund consisting of,-

- (i) any contribution or grant or loan by the State Government and the Central Government;
- (ii) the income of the University from all sources including income from fees and charges;
- (iii) bequest, donations, gifts, endowments and other grants, if any;
- (iv) the moneys received by the University from the collaborating industry in terms of the provisions of the Memorandum of Understanding between the University and the industry, for establishment of sponsored chairs, fellowship and infrastructure facilities of the university.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the finance committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its power and discharge of its functions by or under this Act.

34. (1) The University shall maintain proper account and other relevant records and prepare an annual statement of accounts, including income and expenditure account and the balance sheet in such form and in such manner as may be prescribed.

Accounts
and audit.

(2) The University shall adopt a proper system of internal checks and balances and controls in the discharge of its financial, accounting and auditing functions as may be prescribed.

(3) The accounts of the University shall be audited every year by an auditor, who shall be the Chartered Accountant, as defined in the Chartered Accountant Act, 1949 or a firm of Chartered Accountant, to be appointed by the Board.

XXXVIII
of 1949.

(4) The accounts of the University certified by the Chartered Accountant or firm so appointed or any other person authorized in this behalf, together with audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect therefor as it deems fit and the University shall comply with such instructions.

(5) An internal auditor shall audit the accounts of the University to ensure concurrent audit of all books of accounts and such periodical internal audit report shall be placed before the Board for review.

Submission of annual report.

35. (1) The University shall prepare for each financial year an annual report for each financial year containing such particulars as the Board may specify and shall submit to the Board on or before such date may be prescribed. The Board shall consider such report and may pass resolutions thereon and thereupon the Finance Committee shall take action in accordance with such resolution. The action taken by the Financial Committee on such resolution and if no action is taken, the reasons for taking no action shall be communicated to the Board.

(2) The copy of the annual report along with the resolution of the Board thereon shall be submitted to the State Government.

Pension and Provident Fund and insurance.

36. (1) The University shall, with approval of the Board, constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions as may be prescribed, such schemes of pension, provident fund and insurance as it may deem fit, and also aid in establishment and support of the associations, institutions, funds, trusts and conveyance calculated to benefit of the officers, teachers and employees of the University.

19 of 1925.

XIX of 1925.

(2) Where any such provident fund has been so constituted, the provision for the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

Acts and proceedings not to be invalidated by vacancies.

37. No act or proceeding of the Board or any Authority of the university or any committee constituted under this Act or by regulations shall be questioned on the ground merely of the existence of any vacancy in or defect of, in the constitution of such Board, Authority or committee of the University.

Conferment of degrees, diplomas and grant of certificates by University.

38. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, diplomas and grant certificates and confer honorary degrees and other academic distinctions and titles as approved by the Board.

39. The University shall furnish to the State Government, University Grants Commission and other statutory authorities such reports, returns, statements, documents and other information, as may be required by them from time to time.

Returns and information.

40. Every officer, teachers and other employees of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers and employees to be public servants.

45 of 1860.

Explanation.- For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or who received any remuneration by the way of compensatory allowances or fee for any work done from the University fund, shall be deemed to be an officer or employee of the University while he is performing the duties and functions connected with such appointment or work.

41. (1) No officer or employee or member of teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Dismissal, removal, reduction and termination of service of staff of University.

Provided that nothing in this section shall apply to any person who is appointed on purely temporary basis only.

(2) An appeal against an order of dismissal, removal or reduction in rank under sub-section (1) or of termination of service shall lie to the Vice-Chancellor within sixty days from the date of communication of such order and the decision of the Vice-Chancellor in such appeal shall be final.

42. The State Government shall have power to issue directions from time to time as may be required for compliance of the provisions of this Act, the regulation and under any other law for the time being in force and the University shall comply with such directions.

Power of State Government to give directions.

Power to make regulations. 43. (1) Subject to the provisions of this Act, the Board shall have in addition to all other powers vested in it, the powers to make regulations to provide for administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the Vice-Chancellor and the Chairman;
- (iii) the constitution, powers and duties of the authorities, bodies and other committee of the University, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment and the removal of members thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or the other body constituted under this Act or by the regulations in the conduct of the business, exercise of the powers and discharge of its functions;
- (v) the procedure and the criteria to be followed in establishment of courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the diplomas, the degree, the certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellations of any such

degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;

- (ix) the conduct of examination including the term of office and appointment of examiners;
- (x) the creation of the posts of Directors, Professors, Assistant Professors, Readers, Lecturers or equivalent academic designations or posts, officers and employees of the University; and the appointment of persons to such posts including the qualifications requisite therefor;
- (xi) the fees and other charges, which may be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitutions of insurance, pensions and provident funds and such other schemes for the benefits of officers, teachers and employees of the University;
- (xiii) the terms and conditions for associations of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of executing of contracts or agreements by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers, employees and staff of the University;
- (xvii) the terms and tenure of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Vice-Chancellor, Director, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of teachers, officers, employees of the University;
- (xix) the power and duties of Vice-Chancellor, Director and other officers, teachers and employees of the University;

- (xx) the terms and conditions governing fellowships, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and the decisions of the Board;
- (xxii) the matter relating hostels and halls of residence and housing for faculty, officers and employees of the University and guest house including the disciplinary control therein; and
- (xxiii) all matters which by this Act are to be or may be prescribed.

Indemnity. 44. No suit, prosecutions or other legal proceedings shall lie against and no damage shall be claimed from the University, the Vice-Chancellor, the Director, the authorities or officers or employees of the University or any person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any regulation made there under.

Power to remove difficulties. 45. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removal difficulties:

Provided that no such order shall be made under this section after the expiry of two years for the date of commencement of this Act.

(2) Every order made under this section shall be laid as on as may be after it is made before the State Legislature.

CHAPTER V TRANSITORY PROVISIONS

Completion of courses of students in colleges affiliated to other Universities.

46. Notwithstanding anything contained in this Act or the regulations, any student of a college or institution affiliated to other University, who immediately before the date of affiliation to the University, was studying or was eligible for any examination of the other Universities shall be permitted to complete his course in preparation therefor and the University shall

provide for such period and in such manner as may be prescribed for the instruction, teaching, training and examination of such students in accordance with the course of studies of the other University.

47. Notwithstanding anything contained in section 11, the first Vice-Chancellor shall be appointed by the State Government as soon as practicable after coming into force of this Act for a period not exceeding one year on such terms and conditions as it may think fit.

Appointment of first Vice-Chancellor.

48. Notwithstanding anything contained in section 25, the first Registrar shall be appointed by the State Government as soon as practicable after coming into force of this Act for a period not exceeding one year on such terms and conditions as it may think fit.

Appointment of first Registrar.

49. (1) It shall be the duty of the first Vice-Chancellor, -

Transitory power of first Vice-Chancellor.

- (a) to give affiliation to the college or institution, if any, as far as possible consistently with the provisions of section 26;
- (b) to make arrangements for constituting the Academic Council, the Finance Committee and other authorities of the University; and
- (c) to frame first regulations and submit it to the respective authority for confirmation when it commences to exercise its functions.

STATEMENT OF OBJECTS AND REASONS

The present day onset of globalization and international competition demands specialisation in every field. The specialisation in technological know how has become the dire need of the hour, especially in technical education. The trend in the traditional set up of technical education in the State requires to be revamped and to bring in tune with the needs of the Society. Therefore, there is a need to set up separate and single Technology University in the State and to link all the engineering colleges of the State to such Technology University. It is also desirable to build suitable mechanism for evolving right strategies for imparting technical education and for implementation and management in the fields of technology, engineering and science through such single University.

The establishment of the Technology University is proposed with the object to provide statutory set up of single University for technological education and making it relevant to the rural and industrial development of the State. It is, therefore, considered necessary to establish 'the Gujarat Technological University' in the State by enacting a law.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill: -

Clause 2. - This clause defines certain terms used in the Bill.

Clauses 3 and 5. - These clauses provide for the establishment, incorporation and objects of the University.

Clause 6. - This clause provides that University shall open to all.

Clause 7. - This clause provides for the powers and functions of the University.

Clause 8. - This clause provides for the jurisdiction of the University. It also provides that the colleges or institutions imparting education in engineering and technological subject shall cease to be affiliated to other Universities and shall be deemed to be affiliated to the proposed University on the issue of notification by the State Government in this behalf.

Clauses 9 and 10. - These clauses provide that the Governor of the State shall be the Chancellor of the University and shall have right to cause an inspection and inquiry.

Clauses 11 and 12.- These clause provides for appointment of the Vice-Chancellor of the University and his powers.

Clauses 13 and 14.- These clauses relate to authorities and officers of the University.

Clauses 15 to 18.- These clauses relate to the constitution of Board of Governors, powers of Chairman of the Board and powers and functions of the Board and the term of office of the members of the Board.

Clauses 19 and 20.- These clauses provide for the constitution, powers and functions of the Academic Council.

Clauses 21 and 22.- These clauses provide for the constitution, powers and functions of the Finance Committee.

Clause 23.- This clause provides for the appointment of the Director and his powers and functions.

Clause 24.- This clause provides for the appointment, powers and functions of the Deans of the University.

Clause 25.- This clause provides for appointment, powers and functions of the Registrar of the University.

Clauses 26 to 30.- These clauses provide for making an application for affiliation of college or institution, inspection of colleges, withdrawal of affiliation and appeal against withdrawal of affiliation.

Clause 31.- This clause empowers the Board to recommend the State Government for withholding or reduction of grant of a college which is making persistent default in carrying out the conditions of affiliations.

Clause 32.- This clause provides for post-graduate teaching by the affiliated colleges or institutions.

Clause 33.- This clause provides for the funds of the University.

Clauses 34 and 35.- These clauses provide for the preparation of annual statement of accounts including income and expenditure account, balance sheet and audit.

Clause 36.- This clause provides for pension, provident fund and insurance for the officers, teachers and other employees of the University.

Clause 37.- This clause provides for acts and proceedings not be invalidated by vacancies or defect in constitution of Board or any authority of the University.

Clauses 38 and 39.- These clauses provide for the conferment of degrees and diplomas and grant of certificates by the University and furnishing returns and information to the State Government.

Clause 40.- This clause provides that the officers and employees of the University shall be public servants.

Clause 41.- This clause provides that the teaching and non-teaching staff shall not be dismissed, removed or reduced in rank without inquiry and without giving an opportunity of being heard.

Clause 42.- This clause empowers the State Government to give directions to the University.

Clauses 43 to 45.- These clauses relate to making of regulations by the University, indemnity and powers to remove difficulties.

Clauses 46 to 49.- These clauses provides for completion of courses of students, appointment of first Vice-Chancellor and first Registrar and transitory powers of the first Vice-Chancellor.

ANANDIBEN PATEL

FINANCIAL MEMORANDUM

Para (i) of sub-clause (1) of clause 33 of the Bill contemplates payment of contribution or grants to the University amongst others, by the State Government. This provision, if enacted and brought into operation, would involve an annual expenditure of about rupees fifty lakhs from the Consolidated Fund of the State towards the grants to be made to the University, out of which rupees ten lakhs would be of recurring nature and rupees forty lakhs would be of non-recurring nature.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 4.- This clause empowers the State Government to specify by notification in the *Official Gazette*, the place of headquarters of the University.

Clause 7.- (i) Sub-Clause (iv) of this clause empowers the University to prescribe by regulations, the course of study and the curricula;

(ii) Sub-clause (v) of this clause empowers the University to determine by regulations, the conditions subject to which it may confer degrees and diplomas and to grant certificates and other academic distinctions of titles and also empowers the Board to withdraw or cancel any such degree, diploma or certificate;

(iii) Sub-clause (vi) empowers the University to prescribe by Regulations, the manner in which the University may confer honorary degrees or other academic distinctions;

(iv) Sub-clause (xix) empowers the University to prescribe by Regulations to fix the fees and such other charges;

(v) Sub-clause (xxvii) empowers the University to prescribe by Regulations, the manner in which the students shall be admitted for the courses offered by the University;

(vi) Sub-clause (xxix) empowers the University to prescribe by Regulations, the disciplinary measures to be taken against the officers and the employees of the University;

(vii) Sub-clause (xxx) empowers the University to prescribe by Regulations, the qualifications for appointment of the persons to be appointed on the post of teaching, academic or research and other post of University.

Clause 8.- This clause empowers the State Government to specify by notification in the *Official Gazette*, the colleges and educational institutions imparting education in engineering and technological subjects in the State, shall cease to be affiliated to any other University and shall be deemed to be affiliated to the University from such date as specified in the said notification.

Clause 11.- Sub-clause (6) of this clause empowers the State Government to determine other terms and conditions of service of the Vice-Chancellor of the University.

Clause 12.- Para (iv) of sub-clause (3) of this clause empowers the University to prescribe by regulations subject to which the Vice Chancellor shall exercise such other powers and perform such other duties.

Clause 13.- Sub-clause (iv) of this clause empowers the University to declare by Regulations, such other authorities to be the authorities of the University.

Clause 14.- Sub-clause (vi) of this clause empowers the University to declare by regulations, such other persons to be the officers of the University.

Clause 16.- Sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Chairman.

Clause 17.- (i) Item (iii) of sub-clause (2) of this clause empowers the Board to make regulations for carrying out the purposes of the Act;

(ii) item (xi) of sub-clause (2) of this clause empowers the University to prescribe by Regulations, other powers which may be exercised and the other duties which may be performed by the Board to achieve the objects of the University.

Clause 20.- Sub-clause (iv) of this clause empowers University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Academic Council.

Clause 22.- Sub-clause (viii) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Finance Committee.

Clause 23.- (i) Sub-clause (1) of this clause empowers the University to prescribe by regulations, the manner in which and the terms and conditions on which the Directors shall be appointed;

(ii) sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Directors.

Clause 24.- Sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Deans.

Clause 25.- (i) Sub-clause (1) of this clause empowers the University to prescribe by regulations, the manner in which the terms and conditions on which the Registrar shall be appointed;

(ii) para (vii) of sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Registrar.

Clause 26.- Sub-clause (2) of this clause empowers the University to prescribe by regulations, the form of application, fees and norms and criteria for making an application by a college for affiliation.

Clause 32.- This clause empowers the University to prescribe by regulations, the colleges or institution which may conduct the post-graduate courses of studies and also the subject.

Clause 34.- (i) Sub-clause (1) of this clause empowers the University to prescribe by regulations, the manner in which and the form in which proper accounts, other relevant records, annual statement of accounts, the income and expenditure account and balance sheet shall be maintained;

(ii) sub-clause (2) empowers the University to prescribe by regulations, proper systems of internal checks and balances in discharge of financial, accounting and auditing functions of the University.

Clause 35.- Sub-clause (1) of this clause empowers the University to prescribe by regulations, the date on or before which annual report shall be submitted to the Board.

Clause 36.- Sub-clause (1) of this clause empowers the University to prescribe by regulations, the manner in which and the conditions subject to which the University shall constitute such schemes of pension, provident fund and insurance for the officers and employees of the University.

Clause 42.- This clause empowers the State Government to issue directions to the University, as may be required for compliance of the provisions of the Act, the regulations and under any other law.

Clause 43.- Sub-clause (1) of this clause empowers the Board to make regulations for the administration and management of the affairs of the University; and sub-clause (2) empowers the Board to make regulations for all or any of the matters specified therein.

Clause 45.- This clause empowers the State Government to make an Order, by publishing in the *Official Gazette*, for removing any difficulty arising within two years in giving effect to the provisions of this Act.

Clause 46.- This clause empowers the University to prescribe by regulations, the period within which and the manner in which students shall complete the instruction, teaching, training and examination in the colleges affiliated to other Universities.

Clause 47.- This clause empowers the State Government to appoint the first Vice Chancellor of the University and the terms and conditions for such appointment.

Clause 48.- This clause empowers the State Government to appoint the first Registrar of the University and the terms and conditions for such appointment.

Clause 49.- This clause empowers the first Vice Chancellor to frame the first regulations for the purposes of the University.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 23rd March, 2007.

ANANDIBEN PATEL

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Gandhinagar.

Secretary to the Government of Gujarat,

Dated the 28th March, 2007.

Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.

(C)



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

THE KADI SARVA VISHWAVIDYALAYA BILL, 2007.

GUJARAT BILL NO. 29 OF 2007.

A BILL

to provide for the establishment of the Kadi Sarva Vishwavidyalaya, Gandhinagar, Gujarat by law and to confer the status of a non-affiliating University thereon and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Kadi Sarva Vishwavidyalaya Act, 2007. Short title and commencement.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions 2. In this Act, unless the context otherwise requires, -

- (a) "Academic Council" means the Academic Council of the University constituted under section 16;
- (b) "Board" means the Board of Governors of the University constituted under section 12;
- (c) "Chairman" means the Chairman of the Board;
- (d) "Director" means the Director of the University appointed under section 20;
- (e) "Deans" mean the Deans of the University appointed under section 22;
- (f) "Finance Committee" means Finance Committee of the University constituted under section 18;
- (g) "President" means the President of the University appointed under section 8;
- (h) "prescribed" means prescribed by the Regulations;
- (i) "Registrar" means the Registrar of the University appointed under section 23;
- (j) "Regulations" means the regulations of the University made under section 36;
- (k) "Schedule" means the Schedule appended to this Act;
- (l) "Trust" means the Sarva Vidyalaya Kelavani Mandal, Kadi registered under the Bombay Public Trusts Act, 1950;
- (m) "University" means the Kadi Sarva Vishwavidyalaya, a University established under section 3.

Bom. 29 of
1950.

CHAPTER II

UNIVERSITY

Establishment and incorporation of University.

- 3. (1) There shall be established a University by the name of "the Kadi Sarva Vishwavidyalaya, Gandhinagar, Gujarat".
- (2) The President, the Board, the Academic Council, the Director, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constitute a body corporate by the name of "the Kadi Sarva Vishwavidyalaya, Gandhinagar, Gujarat".
- (3) The University shall function as a non-affiliating University and it shall not affiliate any other college or institute for the conferment of degree, diploma and grant certificate to the students admitted therein.

(4) The colleges and institutions specified in the Schedule, affiliated to and enjoying the privileges of the Gujarat University immediately before the commencement of this Act shall cease to be affiliated from the Gujarat University and shall be deemed to be withdrawn from such privileges from the date of commencement of this Act and shall be deemed to be admitted to the privileges of the University, and all such colleges and institutions shall be the constituents colleges and institutions of the University.

(5) The University shall be a body corporate by the name aforesaid, having perpetual succession and common seal with power, subject to the provision of this Act, to acquire and hold property, to contract and shall, by the said name, sue or be sued.

(6) The University shall not receive any grant-in-aid or other financial assistance from the State Government or the Central Government.

4. The headquarters of the University shall be at Gandhinagar, Gujarat. Headquarters of University.

5. The objects of the University shall be to develop the knowledge of science, technology, dental, medical, paramedical, physiotherapy, pharmacy, commerce, education, management, computers and humanities for the advancement of mankind. The objects of the University shall be as follows, namely:-

- (i) to disseminate, create and preserve knowledge and understanding by teaching, research, training and extension activities by effective demonstration and influence of its corporate life on society in general;
- (ii) to create centres of excellence for providing knowledge, education, training and research facilities of high order in the field of science, technology, dental, medical, physiotherapy, paramedical, pharmacy, commerce, education, management, computers, humanities and other related professional education and such other related matters as may develop in future, including continuing education and distance learning;
- (iii) to develop patterns of teaching for a certificate, diploma and degree of Graduate and Post-graduate courses and at Doctoral level and to maintain a high standard of education, its applications, to create capabilities for upgrading science and technology, dental, medical, physiotherapy, paramedical, pharmacy, commerce, education, management, computers humanities and technology infrastructure to the global standards;
- (iv) to develop training facilities and to make arrangements for training in higher education, professional education, and allied fields, to provide for inter-relationship for national and global participation, in the field of science and technology, dental,

Objects of University.

medical, physiotherapy paramedical, pharmacy, commerce, education, management, computers and its allied fields of humanities and social concerns;

- (v) to function as a learning resource centre;
- (vi) to provide for arrangement for national and global participation in the field of higher and professional education including technical education, science and technology, dental, medical, physiotherapy paramedical, pharmacy, commerce, education, management, computers and its allied fields of humanities and social concerns; and
- (vii) to establish close linkage with the industry to make teaching, research and training at the University, relevant to the needs of the society, at national and global level.

University open to all irrespective of sex, religion, class, creed or opinion.

6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities, bodies or committees or from admission to any degree, diploma or other academic distinction or course of study on the ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma, or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

Powers and functions of University.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:-

- (i) to administer and manage the University and such centres within the University campus for research, education and instruction as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instruction, training, research in such branches of knowledge or learning pertaining to science, technology, dental, medical, physiotherapy, pharmacy, commerce, education, management, computers, humanities and allied areas and for advancement and dissemination of science and technology and the allied areas;
- (iii) to conduct innovative experiments in new teaching and learning methods and technologies in the field of science and technology, dental, medical, physiotherapy, pharmacy, commerce, management, computers and allied areas in order to achieve international standards of such education, training and research;

- (iv) to prescribe courses of study and curricula and provide for flexibility in the education system and delivery methodologies including electronic and distance learning;
- (v) to hold examinations through electronic mode also and confer degrees, diplomas or grant certificates, and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the prescribed manner;
- (vi) to confer honorary degrees or other distinctions in the prescribed manner;
- (vii) to establish such special centres, specialized study centres or other units within the University campus for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other works and to organize exhibitions, workshops, seminars and conferences;
- (ix) to sponsor and undertake research in all aspects of science, technology, dental, medical, physiotherapy, pharmacy, commerce, education, management, computers and humanities and allied areas;
- (x) to collaborate or associate with, advise, administer, control, develop and maintain with other Universities or any educational institution with like or similar objects;
- (xi) to develop and maintain linkages with educational or other institutions having objects wholly or partially similar to those of the University, through exchange of teachers, students and scholars, and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, researchers and domain experts in science, technology, dental, medical, physiotherapy, pharmacy, commerce, education, management, humanities and allied areas for achieving the objects of the University;
- (xiii) to regulate the expenditure and to manage the finances and to maintain the accounts of the University;
- (xiv) to receive funds from industry, national and international organizations or any other source as gifts, donations, benefactions or bequests by transfers of movable and immovable properties for the purposes and objects of the University;
- (xv) to establish, maintain and manage halls and hostels for the residence of students;

- (xvi) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xvii) to fix, demand and receive or recover fees and such other charges in accordance with the guidelines of the State Government or National Statutory bodies;
- (xviii) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xix) to purchase or to take on lease or accept as gifts or otherwise any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and proper and to construct or alter and maintain any such building or works;
- (xx) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University;
- (xxi) to draw and accept, to make and endorse, to discount and negotiate promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxii) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of money, to repay and redeem any money borrowed;
- (xxiii) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of the University;
- (xxiv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements, and other conveyances in respect of property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University;
- (xxv) to admit the students for the courses offered by the University in the prescribed manner;
- (xxvi) to create academic, technical, administrative, ministerial and other posts, to prescribe qualifications therefor and to make appointments thereto;
- (xxvii) to regulate and enforce discipline among the officers and employees of the University and to provide for such disciplinary measures as may be prescribed;

- (xxviii) to institute professorships, associate professorships, assistant professorships, readerships, lecturerships and any other teaching, academic or research posts and to prescribe qualifications for the persons to be appointed on such posts;
- (xxix) to appoint persons as professors, associate professors, assistant professors, readers, lecturers or as teachers and researchers of the University;
- (xxx) to delegate all or any of its powers (except the power to make regulations) to any other officer or authority of the University; and
- (xxxi) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

CHAPTER III

AUTHORITIES OF UNIVERSITY

8. (1) The President of the University shall be appointed by the President.
Trust.

(2) The President shall hold office for a period of three years from the date of appointment and shall be eligible for re-nomination.

(3) The other terms and conditions of the President shall be such as may be determined by the Trust.

(4) Where a vacancy in the office of the President occurs on account of death, resignation or otherwise, the Trust shall immediately appoint suitable person to be the President of the University.

(5) The President may resign from his office by writing under his hand addressed to the Managing Trustee of the Trust and such resignation shall take effect from the date of acceptance by the Trust.

9. (1) The President shall have all the powers necessary for the purpose of ensuring the implementation of the provisions of the Act and the regulations made thereunder. Powers of President.

(2) The President shall be entitled to be present and with the right to speak at any meeting of any authority or body of the University.

(3) The President shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching,

research and other work conducted or done by the University and to cause an enquiry to be made in like manner and in respect of any matter connected with the administration and finances of the University.

Authorities of University. 10. The following shall be the authorities of the University, namely:-

- (a) the Board of Governors,
- (b) the Academic Council,
- (c) the Finance Committee, and
- (d) such other bodies as may be declared by the regulations to be the authorities of the University.

Officers of University. 11. The following shall be the officers of the University, namely:-

- (a) the President,
- (b) the Director,
- (c) the Deans,
- (d) the Registrar, and
- (e) such other officers in the services of the University as may be declared by the Regulations to be the officers of the University.

Board of Governors. 12. (1) The Board of Governors of the University shall consist of the following members, namely:-

- (i) the President, who shall be the Chairman of the Board;
- (ii) two representatives of the Executive Committee of the Trust;
- (iii) the Director of the University;
- (iv) two Deans of the University, by rotation, to be nominated by the Director;
- (v) the Secretary to Government (Higher and Technical Education), Education Department, Government of Gujarat, *ex-officio*;
- (vi) three experts representing other disciplines such as finance, legal, management, humanities, to be nominated by the President; and
- (vii) two representatives of the Industries, to be nominated by the President.

(2) The Registrar shall be the Secretary of the Board.

Powers of Chairman. 13. (1) The Chairman shall preside over at the meetings of the Board and at the convocations of the University.

(2) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Regulations.

14. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the University and shall exercise all the powers to review the acts of the Academic Council and the Finance Committee and any other committee or authority constituted by the University and of the officers of the University.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely:-

- (i) to take decisions on question of policy relating to the academic and administrative matters and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make Regulations;
- (iv) to consider and approve the annual report and the annual statement of accounts of the University for every financial year and to appoint auditor;
- (v) to invest moneys and funds of the University and take decisions on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, treaties, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale of the same as it may deem fit;
- (vii) to create or abolish posts of teachers and other officers and employees of the University;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act;
- (ix) to delegate any of its powers to the Director, Dean, Registrar, or any other officer, employee or authority of the University or to a committee appointed by it; and
- (x) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the Regulations and all such other powers for achieving the objects of the University.

15. (1) The term of the nominated member of the Board shall be three years from the date of his nomination.

(2) An *ex-officio* member shall continue so long as he holds the office by virtue of which he is the member of the Board.

Powers and functions of Board.

Terms of office and vacancies among members of Board.

(3) Any vacancy in the Board occurring before the reconstitution or before the expiry of the prescribed period shall be filled in the same manner as provided in section 12 and such member shall hold office for the remainder of the term of a member, in whose place he is nominated.

(4) A member shall be eligible for re-nomination for the next term.

(5) A member may resign his office by writing under his hand, addressed to the President and his resignation shall take effect on the date it is accepted by the President.

Academic 16. (1) The Academic Council of the University shall consist of Council, the following members, namely:-

- (i) the Director of the University, who shall be the Chairman of the Academic Council;
- (ii) two academician or professional, to be nominated by the Board;
- (iii) two external academician or professional in the fields of education imparting by the University, to be nominated by the Director;
- (iv) two deans, by rotation to be nominated by the Director; and
- (v) one Professor from each discipline of the University, by rotation to be nominated by the Director.

(2) The Registrar shall be the Secretary of the Council,

(3) The term of office of the members shall be three years.

Powers and duties of Academic Council. 17. Subject to the provisions of this Act and the regulations, the Academic Council shall have the following powers and duties, namely:-

- (i) to exercise control over the academic policies of the University and shall be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the Faculty of the University or the Board and to take appropriate action thereon;
- (iii) to recommend to the Board such Regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and
- (iv) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Regulations or by the Board.

18. (1) The Finance Committee shall consist of the following members, namely :-

- (i) the Director who shall be the Chairman of the Committee;
- (ii) one member of the Board to be nominated by the President;
- (iii) one Dean, by rotation to be nominated by the Director; and
- (iv) one expert in the field of finance to be nominated by the President.

Finance Committee.

(2) The Registrar shall be the Secretary of the Committee.

(3) The term of office of the members shall be three years.

19. Subject to the provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and make recommendation to the Board thereon;
- (ii) to review the financial position of the University from time to time;
- (iii) to make recommendations to the Board on all financial policy matters of the University;
- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditure;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget has been incurred;
- (vii) to examine all the proposals relating to revision of pay scales, upgradation of the scales and emoluments of officers and employees of the University and all those items which are not included in the budget, prior to placing before the Board; and
- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Regulations or by the Board.

Powers and functions of Finance Committee.

20. (1) (a) The Director shall be appointed by the Board out of the panel of names recommended by the committee consisting of the following members to be nominated by the President, namely:-

- (i) an eminent technologist;
- (ii) an eminent educationist; and
- (iii) one member of the Board.

Director.

(b) The President shall designate one of the members of the Search Committee to be the Chairman of the Committee.

(2) The term of office of the Director shall be determined by the Board for a period of five years.

(3) Where a vacancy in the office of the Director occurs and it cannot be conveniently and expeditiously filled up in accordance with the provisions of sub-section (1) and if there is any emergency, the President, in consultation with the Board may appoint any suitable person to be the Director and may, from time to time extend the term for a period not exceeding one year.

(4) The terms and conditions of the service of the Director shall be such as may be prescribed by the Board and until so prescribed, shall be determined by the President.

Powers and duties of Director. 21. (1) The Director shall be the Chief Executive and Academic Officer of the University. He shall preside over at the meetings of the Academic Council and Finance Committee.

(2) The Director shall -

- (i) exercise general superintendence and control over the affairs of the University;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instruction and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the Regulations or as may be delegated to him by the Board or by the President.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the Chairman or Authority or body of the University empowered under this Act to deal with it, the Director may take such action as he may deem fit and shall forthwith report the action taken by him to the Chairman or authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or the body is of the opinion that such action ought not to have been taken by the Director, it may refer the matter to the Chairman who may either confirm the action taken by the Director or annul the same or modify it in such manner as he thinks fit and thereupon it shall cease to have effect or, as the case may be, shall take effect in such modified form, so however such modification or annulment

shall be without prejudice to the validity of anything previously done by or under the orders of the Director.

(4) Where the exercise of the power by the Director under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment, in accordance with the provisions of this Act and the regulations, not later than three months from the date of order of the Director, otherwise the same shall cease to have effect on the expiration of a period of six months from the date of order of the Director.

22. (1) The Deans of the University shall be appointed by the Director, with the approval of the Chairman, from amongst the faculty Deans. of the University.

(2) The Deans shall assist the Director in managing the academic and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed or to be entrusted to them by the Director.

23. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed.

Registrar.

(2) The Registrar shall exercise the following powers and perform following duties, namely:-

- (i) He shall be responsible for the custody of records, common seal, the funds of the University and such other properties of the University;
- (ii) He shall place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) He shall be responsible to the Director for the proper discharge of his functions;
- (iv) He shall be responsible for the administration and services of the University and conducting the examination and make all other arrangements necessary thereof and be responsible for the execution of the processes connected therewith;
- (v) He shall attest and execute all documents on behalf of the University;
- (vi) He shall verify and sign the pleadings in all suits and other legal proceedings by or against the University and all processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) He shall exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the Regulations or as may be delegated to him by the Board or the Director.

CHAPTER IV

FUNDS, ACCOUNTS AND AUDIT

Permanent Endowment Fund of University. 24. The Trust shall place funds at the disposal of the University to be called the Permanent Endowment Fund of a sum of ten crores of rupees or such sum required for meeting the full operational expenditure of the University for three years whichever is more, in long term interest bearing securities issued or guaranteed by the Central Government or the State Government. On the termination of the involvement of the Trust and after meeting the operational expenditure for three years out of the Permanent Endowment Fund, if there is any unused balance that shall be paid back to the Trust.

Payment to University. 25. The Trust shall pay to the University from time to time such sums of moneys and in such manner as may be considered necessary for the exercise of its powers and discharge of its functions under this Act.

Funds of University. 26. (1) The University shall have its own funds consisting of –

- (i) all moneys provided by the trust;
- (ii) all fees and other charges received by the University;
- (iii) all moneys received by the University by way of grants, loans, gifts, donations, benefactions, bequests or transfers;
- (iv) all moneys received by the University from the collaborating Industry, in terms of the provisions of the Memorandum of Understanding between the University and the Industry for establishment of sponsored chairs, fellowships and infrastructure facilities of the University; and
- (v) all moneys received by the University in any other manner or from any other source.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its function.

Accounts and Audit. 27. (1) The University shall maintain proper accounts and other records and prepare an annual statement of accounts, including the income and expenditure accounts and the balance sheet, in such form and in such manner as may be prescribed.

(2) The University shall adopt a proper system of internal checks and balances and controls in the discharge of its finance, accounting and auditing functions as may be prescribed.

XXXVIII of 1949. (3) The accounts of the University shall be audited every year by an auditor who shall be a Chartered Accountant as defined in the Chartered Accountant Act, 1949 or a firm of Chartered Accountants to be appointed by the Board.

(4) The accounts of the University certified by the person or firm so appointed or any other person authorized in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accountants appointed by the Board, to ensure concurrent audit of all books of accounts, and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare for each year a report of its activities of the previous year and submit it in the form of an annual report to the Board for review and approval.

28. (1) The University shall, with the approval of the Board, constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions, as may be prescribed, such schemes of pension, provident fund and insurance as it may deem fit and also aid in establishment and support of the associations, institutions, funds, trust and conveyance calculated to the benefit of the officers, teachers and employees of the University.

Pension,
Provident
Fund and
Insurance.

XIX of 1925.

(2) Where any such provident fund has been so constituted, the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

CHAPTER V SUPPLEMENTARY PROVISIONS

29. No act or proceeding of the Board, or any authority of the University or any committee constituted under this Act or by the Regulations shall be questioned on the ground merely of the existence of any vacancy in or defect in the constitution of, the Board, Authority or Committee of the University.

Acts and
proceedings not
to be
invalidated by
vacancies.

30. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, honorary degrees, diplomas and other academic distinctions, titles and grant certificates as approved by the Board.

Conferment of
degrees, diplomas
and grant of
certificate by
University.

31. The University shall furnish to the State Government, University Grants Commission and other statutory authorities such reports, returns,

Returns and
information.

statements and other information as may be required by them from time to time.

Management of University on dissolution of Trust. 32. The Trust shall give a notice of not less than four years period to the State Government of its intention to dissolve the Trust. The State Government may direct the University to cease fresh admissions and also direct the Trust to phase out the responsibility of running the University until the last batches of students in regular courses of the University complete their courses. It shall be obligatory on the part of the Trust not to compromise in terms of the quality of education and training in the interim years and provide reasonable exit benefits for the employees.

Officers and employees to be public servants. 33. Every officer, teacher and other employees of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Explanation. - For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or, who received any remuneration by way of allowances or fee for any work done from the University Fund, shall be deemed to be an officer or employee of the University while he is performing the duties and functions connected with such appointment or work.

Dismissal, removal, reduction and termination of service of staff of University. 34. (1) No member of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) An appeal from an order of dismissal, removal or reduction under sub-section (1) or of termination shall lie to the President within ninety days from the date of communication of such order and the decision of the President in such appeal shall be final.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Powers of State Government to give directions. 35. The State Government shall have powers to issue directions to the University from time to time as may be required for the compliance of the provisions of this Act, the Regulations and under any other law for the time being in force and the University shall be bound to comply with such directions.

Power to make Regulations. 36. (1) Subject to the provisions of this Act, the Board shall have, in addition to all other powers vested in it, the power to make Regulations to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such Regulations may provide for all or any of the following matters, namely :-

- (i) the summoning and holding of meetings of the authorities of the University other than the first meeting of the Board, and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the President of the Board of the University;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University established under this Act, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment and removal of members thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted under this Act or by the Regulations in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations including term of office and appointment of examiners;
- (x) the creation of posts of Professors, Associate Professors, Assistant Professors, Readers, Lecturers or equivalent academic designations or posts, officers and employees of the University and the appointment of persons to such posts including the qualifications requisite therefor;
- (xi) the fees and other charges which may be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of pension, provident funds, insurance and such other schemes for the benefit of officers, teachers and other employees of the University;
- (xiii) the terms and conditions applicable for association of the University with other institutions;

- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreement by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers and staff of the University;
- (xvii) the terms and tenure of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Director, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of officers and staff of the university;
- (xix) the powers and duties of the Director and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowship, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence including disciplinary control therein; and
- (xxiii) all matters which, by this Act, are to be or may be prescribed by the Regulations.

Indemnity. 37. No suit, prosecution or other legal proceedings shall lie against and no damages shall be claimed from the University, the Director, the authorities or officers of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any Regulation made thereunder.

CHAPTER VII

TRANSITORY PROVISIONS

Transitory provisions. 38. Notwithstanding anything contained in this Act,-

- (i) the Chairman of the Trust holding the post as such immediately before the commencement of this Act shall be the first President of the University;
- (ii) one of the trustees nominated by the Trust shall be the first Director of the University;
- (iii) the first Director may, with the prior approval of the President and subject to the availability of the funds, discharge all or any of the functions of the University for the purpose of carrying out the provisions of this Act and for that purpose, may exercise the powers and perform the duties which by or under this Act are required to be exercised or performed by any authority of the University until such authority comes into existence in accordance with the provisions of this Act. The Trust shall review and monitor such actions taken by the Director.

39. Notwithstanding anything contained in this Act or the Regulations, any student of the Colleges or Institutions specified in the Schedule, situated within the University area and affiliated to the Gujarat University who immediately before the commencement of this Act was studying or was eligible for any examination of the Gujarat University shall be permitted to complete his course in preparation therefore, and the University shall provide for such period and in such manner as may be prescribed for the instruction, teaching, training and examination of such students, in accordance with the courses of studies of the Gujarat University.

Completion of courses of students in colleges affiliated to Gujarat University.

40. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing difficulties;

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

SCHEDULE

(See sub-section (4) of section 3 and section 39)

COLLEGES / INSTITUTIONS AFFILIATED TO THE GUJARAT UNIVERSITY

Sr. No.	Name of the Colleges / Institutions	Courses being offered
1.	K. B. Institute of Pharmaceutical Education and Research and D.R. Patel Centre for Advanced Studies in Pharmaceutical Bio-technology, Gandhinagar.	B. Pharm. and M. Pharm
2.	S.K. Patel Institute of Management and Computer Studies, Gandhinagar.	M.B.A. and M.C.A.
3.	Bholabhai Patel College of Business Administration, Gandhinagar.	B.B.A.
4.	Bholabhai Patel College of Computer Studies, Gandhinagar.	B.C.A.

5.	Ashvinbhai A. Patel Commerce College, Gandhinagar.	B.Com.
6.	Shardaben Shantibhai Patel College of Education, Gandhinagar.	B.Ed. (Gujarati Medium)
7.	R.H. Patel English Medium B.Ed. College, Gandhinagar.	B.Ed. (English Medium)

STATEMENT OF OBJECTS AND REASONS

The Sarva Vidyalaya Kelavni Mandal, Kadi, a registered Trust has established educational institutions in the areas of advance learning such as Engineering Sciences, Pharmaceutical Education and Research, Management, Humanitics, Computer Sciences and Business Administration, and has earned in a decade high reputation in the academic world, relevant professions and industries.

The vision of the Trust is to provide modern education of international standards and specialised training to students, to be always abreast in their respective fields. The Trust has sound financial viability to establish University and to fulfill its objects.

It is well known that technological world is progressing at very fast pace and the educational institutions ought to keep pace with the fast growing changes.

Since long, it was felt that there is a genuine need to create a sound infrastructure in the State of Gujarat in the field of Science, Technology and other educational areas of international standards and to actively participate in the fructification of the national plan for the science and technology. With this objective, the aforesaid Trust has proposed the State Government to enact a special law for giving it the status of the University.

It is, therefore, considered necessary to establish the Kadi Sarva Vishwavidyalaya, Gandhinagar in the State by enacting a law.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill.

Clause 2.- This clause defines certain terms used in the Bill.

Clauses 3.- This clause provides for the establishment and incorporation of the University.

Clause 5.- This clause provides for objects of the University.

Clause 6.- This clause provides that the University shall open for all.

Clause 7.- This clause provides for powers and functions of the University.

Clauses 8 and 9.- These clauses provide for the appointment of the President of the University and his powers.

Clauses 10 and 11.- These clauses provide for the authorities and officers of the University.

Clauses 12 to 15.- These clauses relate to the constitution of the Board of Governors, powers of Chairman of the Board and the powers and functions of the Board and the term of office of the members of the Board.

Clauses 16 and 17.- These clauses provide for the constitution of and the powers and functions of the Academic Council.

Clauses 18 and 19.- These clauses provide for the constitution, of and the powers and functions of the Finance Committee.

Clause 20 and 21.- These clauses provide for appointment of the Director and his powers and duties.

Clause 22 and 23.- These clauses provide for the appointment of the Deans and the Registrar of the University and their powers, duties and functions.

Clauses 24 and 25.- These clauses relate to Permanent Endowment Fund of the University and payment to University.

Clause 26.- This clause provides for the Fund of the University.

Clause 27.- This clause provides for the preparation of the annual report, annual statement of accounts and the audit.

Clause 28.- This clause provides for the pension, provident fund and insurance of officers, teachers and other employees of the University.

Clause 29.- This clause provides for acts and proceedings not to be invalidated by vacancies.

Clause 30.- This clause relates to conferment of degrees, diplomas and grant of certificates by the University.

Clause 32.- This clause provides for the management of the University, on dissolution of the Trust.

Clause 34.- This clause provides that the teaching and non-teaching staff shall not be dismissed, removed or reduced in rank without an inquiry and giving an opportunity of being heard.

Clause 35.- This clause empowers the State Government to give directions to the University.

Clause 36 to 38.- These clauses relate to making of regulations by the University, indemnity, transitory provisions.

Clause 39.- This clause permits the student to complete his course of study as per the course of study of the respective University.

Clause 40.- This clause empowers the State Government to remove the difficulties arising within a period of two years from the commencement of the Act.

ANANDIBEN PATEL,

FINANCIAL MEMORANDUM

Clause 24 of the Bill provides that there shall be Permanent Endowment Fund of the University of the sum of rupees ten crores to be placed by the Trust for meeting the operational expenditure of the University for three years. Under the provisions of the clause 25, the expenses of the University is to be borne by the Trust and, therefore, the provisions of the Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects, namely :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 7.- (i) Sub-clause (v) of this clause empowers the University to determine the conditions subject to which it may confer the degrees and diplomas, or to grant certificate and other academic distinctions or titles to the persons, and also empowers to prescribe by regulations to withdraw or cancel such degrees, diplomas, certificates or other academic distinctions or titles;

(ii) sub-clause (vi) of this clause empowers the University to prescribe by regulations, the manner in which the University may confer honorary degrees or other distinctions;

- (iii) sub-clause (xxv) of this clause empowers the University to prescribe by regulations, the manner in which the student shall be admitted to it for the courses offered by the University;
- (iv) sub-clause (xxvi) of this clause empowers the Board to prescribe by regulations, the qualifications for the appointment of persons to the academic, technical, administrative, ministerial and other posts of the University;
- (v) sub-clause (xxvii) of this clause empowers the University to prescribe by Regulations, the disciplinary measures to be taken against the officers and the employees of the University;
- (vi) sub-clause (xxviii) of this clause empowers the University to prescribe by regulations, the qualifications for the persons to be appointed to the professorships, associate professorships, assistant professorships, readerships, lecturerships and any other teaching, academic or research posts of the University.

Clause 8.- Sub-clause (3) of this clause empowers the Trust to determine the terms and conditions of the President of the University.

Clause 10.- Sub-clause (d) of this clause empowers the University to declare by regulations, such other authorities to be the authorities of the University.

Clause 11.- Sub-clause (e) of this clause empowers the University to declare by regulations, such other persons to be the officers of the University.

Clause 13.- Sub-clause (2) of this clause empowers the University to prescribe by regulation, such other powers to be exercised and such other duties to be performed by the Chairman.

Clause 14.- Item (x) of sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Board.

Clause 17.- Sub-clause (iv) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Academic Council.

Clause 19.- Sub-clause (viii) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Finance Committee.

Clause 20.- Sub-clause (4) of this clause empowers the University to prescribe by regulations, the terms and conditions of the service of the Director.

Clause 21.- Item (iv) of sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and the such other duties to be performed by the Director.

Clause 22.- Sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers to be exercised and the such other functions to be performed by the Deans.

Clause 23.- Sub-clause (1) of this clause empowers the University to prescribe by regulations, the manner in which and the terms and conditions on which the Registrar shall be appointed.

Clause 27.- (i) Sub-clause (1) of this clause empowers the University to prescribe by regulations, the form in which and the manner in which the accounts, other records, the annual statement of accounts, the income and expenditure accounts and the balance sheet shall be prepared and maintained;

(ii) sub-clause (2) of this clause empowers the University to prescribe by Regulations the manner in which the University shall discharge the financial, accounting and auditing functions.

Clause 28.- Sub-clause (1) of this clause empowers the University to prescribe by Regulations, the manner in which and the conditions subject to which the University shall constitute such schemes of pension, provident fund and insurance for the officers and employees of the University.

Clause 36.- Sub-clause (1) of this clause empowers the Board to make Regulations for the administration and management of the affairs of the University; and sub-clause (2) empowers the Board to make Regulations for all or any of the matters specified therein.

Clause 40.- Sub-clause (1) of this clause empowers the State Government to make an order, published in the *Official Gazette*, for removing any difficulty arising within two years, in giving effect to the provisions of this Act.

The delegation of legislative powers as aforesaid are necessary and is of a normal character.

Dated the 28th March, 2007.

ANANDIBEN PATEL

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 28th March, 2007.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.

(C)



Satyameva Jayate

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT SECOND AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 30 OF 2007.

A BILL

further to amend the *Bombay Provincial Municipal Corporations Act, 1949*.

It is hereby enacted in the Fifty-eight Year of the Republic of India as follows :-

Bom. LIX of 1949.

1. (1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Second Amendment) Act, 2007. Short title and Commencement.
2. It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint. Amendment of section 2 of Bom. LIX of 1949.
3. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 2, clause (42) shall be deleted. Amendment of section 2 of Bom. LIX of 1949.
3. In the principal Act, in section 127, in sub-section (2), -
 - (i) clause (a) shall be deleted; Amendment of section 127 of Bom. LIX of 1949.
 - (ii) in clause (f), after the words "to any entertainment", the words "or octroi" shall be inserted.

Amendment of
section 128 of
Bom. LIX of
1949.

4. In the principal Act, in section 128, in clause (5), the words "octroi and" shall be deleted.

Deletion of
Sections 146
and 147 of
Bom. LIX of
1949.

5. In the principal Act, sections 146 and 147 with the heading shall be deleted.

Amendment of
section 398 of
Bom. LIX of
1949.

6. In the principal Act, in section 398,-

- (i) the words "or octroi", wherever they occur, shall be deleted;
- (ii) in the marginal note, the word "octroi or" shall be deleted.

Amendment of
section 466 of
Bom. LIX of
1949.

7. In the principal Act, in section 466, in sub-section (1), in clause (A), -

- (i) in sub-clauses (a) and (b), the words "octroi and" shall be deleted;
- (ii) sub-clauses (c), (e), (f) and (g) shall be deleted.

Amendment of
Schedule A to
Bom. LIX of
1949.

8. In the principal Act, in Schedule A, -

(1) in Chapter VIII, -

- (a) in the heading "Special provisions relating to octroi and Tolls", the words "octroi and" shall be deleted;
- (b) rules 26, 28, 29 and 33 shall be deleted;
- (c) in rule 35, -
 - (i) for the words "octroi and tolls", the word "tolls" shall be substituted;
 - (ii) in the marginal note, the words "octroi and" shall be deleted;
- (d) in rule 49, -
 - (i) the words "octroi or", wherever they occur, shall be deleted;
 - (ii) in sub-rule (1), for the words "non-payment of any octroi or any toll on demand by any person authorised in this behalf by the Commissioner such person may seize any goods on which the octroi is chargeable, or", the words "non-payment of any toll on demand by any person authorised in this behalf by the Commissioner, such person may seize any goods," shall be substituted;
 - (iii) in sub-rule (4), for the word "octroi", the word "toll" shall be substituted;
 - (iv) in the marginal note, the words "octroi or" shall be deleted;
- (e) in rule 53, in sub-rule (1), the words "octroi or" shall be deleted;
- (f) in rule 62, -
 - (i) for the word "octroi", the word "toll" shall be substituted;
 - (ii) in the marginal note, the words "octroi or" shall be deleted.

(2) in Chapter XIX, under the heading Chapter VIII, the figures, brackets and words "29(1), 29(2) One hundred rupees" shall be deleted.

Bom. LVIII
Of 1904.

9. Notwithstanding the amendments made in the principal Act by this Act, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to such amendments as if the amendments had been the enactments within the meaning of the said section 7.

Savings.

STATEMENT OF OBJECTS AND REASONS

The Municipal Corporations had been authorised under the provisions of the Bombay Provincial Municipal Corporations Act, 1949 to levy and collect the tax known as "octroi".

Octroi, almost universally considered to be an undesirable levy, is a tedious, cumbersome, outdated, regressive tax and practiced only in few countries in the world. It is believed that the check-posts, octroi *nakas*, which constitute the key element in the administration of collection of octroi are susceptible to malpractices, besides being a source of harassment to transit vehicles leading to enormous increase in non-productive man hours.

It has been represented to the Government by the various sections of the society as well as commercial, business and industrial associations for abolishing octroi as it causes undue hardship and harassment to public and also obstructs free flow of trade, commerce and industry. Having regard to the aforesaid facts, the Government have decided to abolish the octroi from the municipal corporations areas in the State. It was, therefore, considered necessary to delete the provisions relating to octroi of the said Act to that effect.

KAUSHIK PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative powers as aforesaid is necessary and of a normal character.

Dated the 4th July, 2007.

KAUSHIK PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 5th July, 2007.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

(C)



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY POLICE (GUJARAT AMENDMENT) BILL, 2007.

GUJARAT BILL NO. 31 OF 2007.

A BILL

further to amend the Bombay Police Act, 1951.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Police (Gujarat Amendment) Act, 2007.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Insertion of
new sections
5A and 5B in
Bom. XXII of
1951.

Bom. XXII of
1951.

2. In the Bombay Police Act, 1951 (hereinafter referred to as "the principal Act"), after section 5, the following sections shall be inserted, namely :-

Director General
and Inspector
General of Police

"5A. (1) For the overall direction and supervision of the Police Force, the State Government shall appoint a Director General and Inspector General of Police who shall exercise such powers, perform such functions and duties and have such responsibilities and authority as may be provided by or under this Act or orders made by the State Government.

(2) The Director General and Inspector General of Police shall be selected from a panel of officers consisting of the officers already working in the rank of the Director General of Police or of the officers in the rank of Additional Director General of Police who have been found suitable for promotion after screening by a Committee under the provisions of the All India Services Act, 1951:

Provided that the panel of officers from the rank of Additional Director General of Police shall not exceed double the number of vacant posts to be filled in the rank of Director General and Inspector General of Police in the State.

(3) The Director General and Inspector General of Police so selected and appointed shall ordinarily have a minimum tenure of two years irrespective of his date of superannuation, subject to the relevant provisions under the All India Services Act, 1951 and the rules made thereunder.

(4) The Director General and Inspector General of Police may be removed from his post before the expiry of his tenure by the State Government by an order in writing specifying the reasons thereof, consequent upon the -

(a) conviction by a court of law in a criminal offence or where charges have been framed by a court in a case involving corruption or moral turpitude; or

(b) punishment of dismissal, removal or compulsory retirement from service or of reduction to a lower post; or

(c) suspension from service; or

(d) incapability to discharge his functions as the Director General and Inspector General of Police due to physical or mental illness; or

61 of 1951.

61 of 1951.

(e) misuse or abuse of powers vested in him or for gross inefficiency and negligence or failure to provide leadership to the police force.

5B. (1) The Police officer on operational duties in the field viz. Inspector General of Police in a range, Deputy Inspector General of Police, Commissioner of Police, Deputy Commissioner of Police, Assistant Commissioner of Police, Superintendent of Police, Sub-Divisional Police Officer and a police officer posted as an Officer in-charge of the Police Station shall ordinarily have a minimum tenure of two years on such post.

Tenure of office of key police functionaries.

(2) Any police officer referred to in sub-section (1) may be removed or, as the case may be, transferred from his post before the expiry of the tenure of two years consequent upon the -

- (a) conviction by a court of law, or
- (b) punishment of dismissal, removal, compulsory retirement from service or of reduction to a lower rank; or
- (c) charges having been framed by a court of law in a criminal offence; or
- (d) suspension from service; or
- (e) incapability to discharge his functions and duties due to physical or mental illness; or
- (f) misuse or abuse of powers vested in him; or
- (g) gross inefficiency and negligence where a prima facie case of a serious nature has been established after a preliminary enquiry; or
- (h) superannuation; or
- (i) promotion to a higher post; or
- (j) on his own request.”.

3. In the principal Act, after section 7, the following section shall be inserted, namely :-

Insertion of new section 7A in Bom. XXII of 1951.

“7A. (1) The State Government may, having regard to the population in an area or the circumstances prevailing in such area, by an order, separate the investigating police from the law and order police wing in such area to ensure the speedier investigation, better expertise and improved rapport with the people.

Separation of investigating wing and law and order wing.

(2) Such investigating police wing shall investigate the serious crimes such as offence punishable under Chapter XII, XVI, XVII of the Indian Penal Code, Offences of Terrorist Activities, Cyber Offences, Inter-State

Penal Code, Offences of Terrorist Activities, Cyber Offences, Inter-State Offenses and such other offences as the State Government may, by an order, direct.

45 of 1860.

(3) The Director General and Inspector General of Police or an officer authorized by him shall co-ordinate between the Law and Order Police wing and the Investigating Police wings.”.

Insertion of new
Chapter IIIA in
Bom. XXII of
1951.

4. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely :-

“CHAPTER IIIA

STATE SECURITY COMMISSION, POLICE ESTABLISHMENT BOARD AND POLICE COMPLAINTS AUTHORITY

Establishment
and constitution
of State Security
Commission.

32A. (1) The State Government shall, by notification in the *Official Gazette*, establish a State Security Commission to exercise the powers and perform the functions as assigned to it by or under the provisions of this Chapter.

(2) The State Security Commission shall consist of the following members, namely :-

- (a) the Chief Minister of the State, *ex-officio*, who shall be the Chairperson;
- (b) the Minister in-charge of Home Department..... *ex-officio*;
- (c) the Chief Secretary to the Government of Gujarat ... *ex-officio*;
- (d) the Secretary to the Government of Gujarat, Home Department, ... *ex-officio*;
- (e) the Director General and Inspector General of Police *ex-officio*, who shall be the Member-Secretary; and
- (g) two non-official members to be appointed by the State Government of persons having reputation for integrity and competence in the field of academia, law, public administration or media.

(3) No person shall be appointed as a member under clause (g) of sub-section (2), if he -

- (a) is not a citizen of India; or
- (b) has been convicted by a court of law or against whom charges have been framed in a court of law; or
- (c) has been dismissed or removed from service or compulsorily retired on the grounds of corruption or misconduct; or

(d) holds an elected political office, including that of member of Parliament or State Legislature or a local body, or is an office-bearer of any political party or any organization connected with a political party; or

(e) is of unsound mind.

(4) A non-official member appointed under clause (g) of sub-section (2) may be removed on any of the following grounds:

(a) proven incompetence;

(b) proven misbehavior or misuse or abuse of powers vested to him;

(c) failure to attend three consecutive meetings of the State security Commission without sufficient cause;

(d) incapacitation by reasons of physical or mental infirmity;

(e) otherwise becoming unable to discharge his functions as a member;

(f) conviction by a court of law in an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, 1860 or where charges have been framed by a court in a case in moral turpitude.

(5) The terms of office of the non-official members shall be for a period not exceeding three years. The other terms and conditions of such members shall be such as may be prescribed.

32B. The State Security Commission shall exercise the following powers and perform the following functions, namely :-

- (1) to advise the State Government on policy guidelines for promoting efficient, effective, responsive and accountable policing of Police Force in the State;
- (2) to assist the State Government in identifying performance indicators to evaluate the functioning of the Police Force. These indicators shall, *inter alia*, include the operational efficiency, public satisfaction, victim satisfaction *vis-à-vis* police investigation and response, accountability, optimum utilization of resources and observance of human rights standards;
- (3) to review periodically, the performance of the Police Force;
- (4) to suggest for the performance of the preventive tasks and service oriented functions of the police force;

Functions of
State Security
Commission.

45 of 1860.

- (5) to review and evaluate organizational performance of the police against -
 - (i) the performance indicators as identified and laid down by the Commission itself;
 - (ii) the resources available with, and constraints of the police;
- (6) to suggest policy guidelines for gathering information and statistics related to police work;
- (7) to suggest ways and means to improve the efficiency, effectiveness, accountability and responsiveness of the police; and
- (8) such other functions as may be assigned to it by the State Government.

Annual Report. 32C. The State Security Commission shall, at the end of each year, prepare a report on its works during the preceding year as well as on the evaluation of performance of the Police Force and submit it to the State Government for consideration and appropriate action.

Constitution of Police Establishment Board.

32D. (1) The State Government shall, by an order, constitute a Police Establishment Board consisting of the following members, namely :-

- (1) The Director General and Inspector General of Police, *ex-officio*, who shall be the Chairman;
- (2) The Additional Director General of Police (Administration), ... *ex-officio*;
- (3) an officer not below the rank of the Deputy Secretary to Government of Gujarat, Home Department, ... *ex-officio*; and
- (4) an officer not below the rank of Inspector General of Police to be nominated by the State Government, *ex-officio*, who shall be the Member Secretary.

Powers and functions of Police Establishment Board.

32E. The Police Establishment Board shall exercise the following powers and perform the following functions and duties, namely :-

- (a) transfer of officers in the rank of Police Inspector and Sub-inspectors;
- (b) prescribe guidelines and instructions for transfer of Subordinate ranks from one Police District to another;
- (c) analyses the grievances of the police personnel below the rank of Deputy Superintendent of Police and suggest remedial measures to the State Government;
- (d) grant promotion to higher post from the cadre of Constable and *Lok Rakshak*;

- (e) such other functions as may be assigned to it by the State Government.

32F. (1) The State Government shall constitute, by an order, the State Police Complaints Authority consisting of the following members, namely :-

- (a) a retired Judge of the High Court or a retired officer not below the rank of Principal Secretary to the Government of Gujarat, who shall be the Chairperson;
- (b) the Principal Secretary to the Government of Gujarat, Home Department, *ex-officio*;
- (c) an officer not below the rank of the Additional Director General of police, nominated by the State Government, *ex-officio* who shall be the Member-Secretary; and
- (d) a person of eminence appointed by the State Government.

(2) The terms and conditions of the members of the State Police Complaints Authority, other than *ex-officio*, shall be such, as may be prescribed.

32G. The State Police Complaints Authority shall exercise the following powers and perform following functions, namely :-

- (1) to look into the complaints against police officers of the rank of Deputy Superintendent of Police and above, in respect of serious misconduct, dereliction of duty, misuse of powers, or any other matter specified by the Government, not covered by the Vigilance Commission, National Human Rights Commission, State Human Rights Commission, Commission for Minorities, Commission for Scheduled Castes and Scheduled Tribes, Commission for Women and Commission for Backward class Communities, or any other Commissions as may be appointed from time to time either by the Central Government or by the State Government;
- (2) to require any person to furnish information on such points or matters as, in the opinion of the Authority, may be useful for, or relevant to, the subject matter of the inquiry, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of sections 176 and 177 of the Indian Penal Code, 1860;
- (3) to enforce attendance of any person and take evidence on oath in the manner of a civil court;
- (4) to make appropriate recommendations to the State Government on any case enquired into by it, wherever required.

Establishment of
State Police
Complaints
Authority.

Powers and
functions of State
Police
Complaints
Authority.

**Establishment of
District Police
Complaints
Authority.**

32H. (1) The State Government shall, by an order, constitute the District Police Complaints Authority for each District consisting of the following members, namely :-

- (a) The Superintendent of Police of the District, ... *ex-officio*, who shall be the Chairperson;
- (b) The Additional District Magistrate of the District, to be appointed by the State Government, *ex-officio*;
- (c) two members of the Gujarat Legislative Assembly elected from the concerning District, to be appointed by the State Government;
- (d) The Deputy Superintendent of Police, *ex-officio*, who shall be the Member-Secretary.

(2) The terms and conditions of the members of the District Police Complaints Authority other than *ex-officio*, shall be such as may be prescribed.

(3) (a) The District Police Complaints Authority shall meet at least once in every quarter and assess the record of at least one-fourth of all Police Stations within the District with respect to the following matters and also prepare a rating in the prescribed manner ,

- (i) prompt registration of First Information Report;
- (ii) custodial violence;
- (iii) extortion of money from complainants and the victims;
- (iv) drunken behavior ; and
- (v) misbehavior with the public.

(b) The report and the rating shall be sent to the concerned authorities for taking appropriate action.

**Powers and
functions of
District Police
Complaints
Authority.**

32I. The District Police Complaints Authority shall exercise the following powers and the perform following functions, namely :-

- (a) receive complaints against police officers posted in the District;
- (b) inquire into the complaints involving serious dereliction from duty, grave misconduct, misuse of powers and such other matters as may be directed by the State Government against the police officers up to the rank of Police Inspector;

- (c) forward the complaints to the State Police Complaints Authority against the police officers in the rank of Deputy Superintendent of Police and above;
- (d) receive and inquire into complaints of non-registration of First Information Report;
- (e) monitor the progress of departmental inquiries into cases of complaints of misconduct against police officers;
- (f) after an inquiry into a complaint of misconduct, the District Police Complaints Authority may make its recommendations to the concerned disciplinary authority;
- (g) direct the registration of the First Information Report, if a complaint of non-registration is found to be correct by the Authority.

32J. The State Government shall provide such sum to the State Security Commission, Police Establishment Board and State and the District Police Complaints Authorities to enable it to discharge the functions assigned to it under this Chapter.”

Providing funds
to Commission,
Board, etc.

STATEMENT OF OBJECTS AND REASONS

The law and order administration need to be equipped legally to carry out functions and fulfill its responsibility to ensure efficiency, transparency and proactive action in ensuring the well being of the citizen at large. The existing Bombay Police Act, 1951 as applicable in the State of Gujarat need to be amended to provide for certain provisions so that the police force of the State achieve new direction in terms of policy guideline, performance parameters, responsiveness to public need and above all to provide for grievance redressal mechanism against the acts of police personnel keeping in view of the direction of the Hon'ble Supreme Court in *Prakash Singh and others Vs. Union of India (2006) 8 SCC 1.*

It is, therefore, considered necessary to amend the Bombay Police Act, 1951 by inserting new sections in the following respects, namely :-

- (1) The selection, appointment and tenure of the Director General and Inspector General of Police in accordance with the proposed section 5A.
- (2) The tenure of other police officers and their removal and transfer in accordance with the proposed section 5B.
- (3) The separation of investigating wing from the law and order wing in the area as decided by the State Government for speedier investigation, better expertise and improved rapport with the people and the powers of such investigating wing as provided in proposed section 7A.
- (4) The establishment of State Security Commission and its powers and functions as provided in the proposed sections 32A and 32B.
- (5) The constitution of the Police Establishment Board and its powers and functions as provided in the proposed sections 32D and 32E.
- (6) The establishment of State Police Complaints Authority and its powers and functions as provided in the proposed sections 32F and 32G.
- (7) The establishment of District Police Complaints Authority and its powers and functions as provided in the proposed sections 32H and 32I.

(8) The State Government shall provide such sum to the aforesaid authorities to carry out their functions under the Act as proposed in section 32J.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

AMIT SHAH,

FINANCIAL MEMORANDUM

Section 32J proposed to be inserted by *clause 4* provides that the State Government shall provide such sum to the Security Commission, Board and Authorities to enable it to discharge its functions. Section 7A proposed to be inserted by *clause 3* provides for separation of investigating police wing from the law and order police wing in such area as the State Government may decide. If these provisions are enacted and brought into force, it would involve expenditure of rupees fifty-eight crores and forty-seven lacs from the Consolidated Fund of the State, out of which rupees fourty crores would be of recurring nature and rupees eighteen crores and forty-seven lacs would be of non-recurring nature.

AMIT SHAH,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.- (1) Sub-section (1) of section 7A proposed to be inserted by this clause empowers the State Government to separate, by an order, the investigating police wing from the law and order police wing in the area as may be decided by the State Government;

(2) sub-section (2) of section 7A empowers the State Government to direct, by an order, the other offences which shall be investigated by the investigating police wing.

Clause 4.— (1) Sub-section (1) of section 32A proposed to be inserted by this clause empowers the State Government to establish, by notification in the *Official Gazette*, the State Security Commission;

(2) sub-section (5) of section 32A empowers the State Government to prescribe by rules, the terms and conditions of the non-official members of the State Security Commission;

(3) sub-section (2) of section 32F proposed to be inserted by this clause empowers the State Government to prescribe by rules the terms and conditions of the non-official members of the State Police Complaints Authority;

(4) sub-section (2) of section 32H proposed to be inserted by this clause, empowers the State Government to prescribe by rules the terms and conditions of the non-official members of the District Police Complaints Authority.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 13th July, 2007.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 13th July, 2007.